
MISSISSIPPI

ADVANCE SHEETS

2013 Legislative Session
General Laws



LexisNexis

**MISSISSIPPI
GENERAL LAWS
ADVANCE SHEETS
2013**

Regular Session

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PREFACE

Contents; publication schedule.

The 2013 Advance Sheets of the General Laws of Mississippi are part of the supplementation service for your official *Mississippi Code of 1972 Annotated*, and consist of a series of pamphlets issued during the 2013 Legislative Session of the State of Mississippi. The purpose of this service is to provide you with the most timely legislative information possible, and to make the most recent changes to the *Mississippi Code* available to you in an easy-to-use format.

The Advance Sheets contain all public acts enacted by the Legislature and approved by the Governor during the 2013 Regular and First Extraordinary Sessions. This pamphlet, the first in the series, contains the first 120 general bills signed by the Governor. The second and third pamphlets will contain the remainder of the acts from the 2013 Regular and First Extraordinary Sessions. Appropriation bills and private and local bills are not included in the Advance Sheets.

The acts are arranged in order by House Bill and Senate Bill number, with House Bills appearing first. The final pamphlet will contain a cumulative table of House Bills and Senate Bills and their corresponding chapter numbers.

Summary of acts; tables; index.

To assist you in locating pertinent legislation, the Advance Sheets include several tables and other features prepared by the editorial staff of the publisher. Included in this Pamphlet 1 are the following:

- a **Summary of Acts** summarizing the subject of each act in the pamphlet;
- **Cumulative Legislative Summaries** giving brief descriptions of important legislation;
- a **Cumulative Table of Code Sections Affected** showing the impact of legislation on sections of the *Code* ;
- a comprehensive, cumulative **Index** , with headings based on the headings that are used in the general index to the *Code*.

In addition, the following tables will be added to the final pamphlet:

- a **Cumulative Allocation of Acts Table** showing each general law and its effect on the section of the *Code*;
- **Cumulative Tables of House Bills and Senate Bills** and their corresponding chapter numbers.

As an added research feature, we have included an individual **Act Summary** preceding each General Law. This summary contains (1) a description of the act, (2) the legislative history of the act, (3) background information, such as the effective date and disposition of the act, (4) the House and Senate committees to which the act was referred, (5) the principal author of the act,

PREFACE

and (6) a list of the *Code* sections affected by the act. To better utilize these act summaries, you should be familiar with the following abbreviations and their meanings:

- Under the heading ""Background Information"
 ""VRA" = Voting Rights Act
 ""App. Req." = Approval Required
- Under the heading ""Code Sections"
 ""A" = Amended
 ""R" = Reenacted
 ""RA" = Reenacted and Amended
 ""RP" = Repealed
 ""BF" = Brought Forward

Treatment of acts in the Advance Sheets.

The most recent General Laws are printed herein exactly as passed. No corrections or other editorial changes have been made.

The Legislature has indicated changes to *Code* materials by using the following symbols:

- Single underscoring of material appearing in an act indicates text that will appear as newly added language in the *Mississippi Code*. For an entirely new section, the section number will be underscored. Double underscoring in the text of an act reflects an amendment to the language of the original bill.
- Triple asterisks (* * *) appearing in an act indicate the deletion of text from a section of the *Mississippi Code*. Where asterisks appear on a line by themselves, the deletion of one or more paragraphs is indicated.

Treatment of acts in *Mississippi Code of 1972 Annotated*.

It is IMPORTANT to note that the treatment of some legislation, when it later appears in the *Mississippi Code of 1972 Annotated*, may be subject to change for various reasons. For example:

- Certain sections of the acts printed in this Advance Sheet were not assigned *Code* section numbers; in these instances, the publisher's staff of legal analysts will suggest *Code* section designations, and these recommendations will be sent to the Joint Legislative Committee on Compilation, Revision and Publication of Legislation for approval;
- *Code* section number assignments might be changed, pursuant to the authority of the Joint Legislative Committee on Compilation, Revision and Publication of Legislation, because of conflicts with previously existing section numbers or because of other refinements made during the editorial process; or
- Text of sections might be changed, also pursuant to the authority of the Joint Legislative Committee on Compilation, Revision and Publication

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of Legislation, because of conflicts with other approved legislation from the 2013 Legislative Session.

Any such changes will be reflected in the 2013 *Mississippi Code of 1972 Annotated* supplements and replacement volumes.

Information, suggestions, comments, and questions.

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Suggestions, comments, or questions about the *Mississippi Code* or the Advance Sheets are always welcome. You may contact us by calling us toll-free at (800) 833-9844, faxing us toll-free at (800) 643-1280, e-mailing us at customer.support@bender.com, or writing to *Mississippi Code* Editor, Matthew Bender & Co., Inc., 701 E Water St., Charlottesville, Virginia 22902-5389.

June 2013

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of important legislation enacted during

2013 Legislative Session of the State of Mississippi

AIRPORTS

Act clarifies the venue for prosecution of offenses committed on airport authority property. **HB 279**

ALCOHOLIC BEVERAGES

Act authorizes tasting or sampling offered by a holder of a distiller's permit on the premises of the distillery. **HB 1300**

Act authorizes persons to make and transport homemade beer in certain circumstances. **SB 2183**

AUCTIONEERS

Act reenacts and extends the repeal date for the auctioneers license act. **HB 1165**

BANKS AND BANKING

Act requires that limitations on loans and extensions of credit to a single borrower take credit exposure from derivative transactions into consideration. **SB 2194**

BOND ISSUES

Act provides that, when an expenditure of state funds involves bond proceeds, the searchable website must provide detailed information on the projects and payment on the bonds. **HB 478**

BUDGETS

Act provides for the transfer of funds to the budget contingency fund from the motor vehicle ad valorem tax reduction fund. **HB 20**

CHECK CASHERS ACT

Act provides for the repeal and reenactment of check cashers act. **HB 559**

CHILD PORNOGRAPHY

Act clarifies the state of mind required to constitute a knowing violation of the provision. **SB 2197**

LEGISLATIVE SUMMARIES

CHILD SUPPORT

Act eliminates the requirement that the department of human services file an administrative income withholding notice with the court. **SB 2210**

Act provides that the child support guidelines are presumed to be reasonable where the adjusted gross income is between \$10,000 and \$100,000. **SB 2338**

CIGARETTES AND TOBACCO PRODUCTS

Act prohibits the distribution of alternative nicotine products to minors. **HB 613**

COLLEGES AND UNIVERSITIES

Act authorizes higher education courses in gaming management and casino hospitality services. **SB 2499**

Act to amend the proprietary school and college registration law regarding definitions, the community college board, and students' right to file a complaint with the commission and recruitment provisions. **SB 2786**

COMMERCIAL CODE

Act directs the secretary of state to publish the secured transactions chapter in print or online. **HB 85**

Act provides for the refusal or termination of false filings under the secured transactions chapter. **HB 1008**

COMPUTER FRAUD

Act defines computer networks to include the Internet for purposes of computer fraud. **HB 686**

CONCEALED WEAPONS

Act clarifies the definition of "concealed" and the general requirements for a license to carry concealed weapons. **HB 2**

Act exempts information about a licensee from the public records act. **HB 485**

CONVEYANCE SAFETY ACT

Act enacts minimum standards for conveyance personnel and services. **HB 817**

CORPORATIONS

Act corrects internal references to the model business corporation act and repeals a provision regarding changing the corporate form of a cooperative association. **SB 2684**

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COUNTIES

Act prohibits certain convicted persons from serving on executive committees, and directs the county executive committee chairman to publish a call for a meeting. **HB 275**

Act authorizes localities to dispose of surplus property through a public auction. **HB 394**

Act sets out the procedures to challenge the qualifications of candidates for county election commissioner. **HB 533**

Act revises the qualifications for the county fire services coordinator. **HB 921**

Act authorizes charitable donations by the county to the YMCA. **HB 1515**

Act prohibits additional charges for payment of court costs by electronic methods. **SB 2447**

COUNTY COURTS

Act provides that the county court has jurisdiction over matters assigned to it by a judge of the circuit court within the same district. **HB 142**

Act authorizes boards of supervisors to establish county courts. **HB 943**

DEBT MANAGEMENT SERVICES

Act reenacts the debt management services act to extend the repeal date. **SB 2557**

DENTISTRY

Act enacts the rural dentists scholarship program. **HB 776**

DOMESTIC VIOLENCE

Act clarifies the membership for the domestic violence task force. **SB 2631**

DRIVER'S LICENSE

Provide fines from other state's electronic traffic cameras shall only be recognized if a Driver License Compact state. **HB 0091**

DRUGS AND CONTROLLED SUBSTANCES

Act revises Schedule III of controlled substances to include anabolic steroids methasterone and prostanazol. **SB 2193**

ELECTIONS

Act sets out the procedures to challenge the qualifications of candidates for county election commissioner. **HB 533**

Act provides for per diem compensation of election commissioners. **SB 2238**

LEGISLATIVE SUMMARIES

Act provides for mileage reimbursement for managers or clerks using a privately owned motor vehicle to carry out their election duties. **SB 2239**

ELECTRONIC CIGARETTES

Act prohibits the distribution of alternative nicotine products to minors. **HB 613**

ELECTRONICS RECYCLING

Act requires the department of environmental quality to maintain a list of certified electronic recyclers. **SB 2754**

EMERGENCY MEDICAL SERVICES

Act provides for certification for EMT-paramedic critical care personnel. **SB 2202**

EMERGENCY 911 TELEPHONE SERVICES

Act extends the repeal date on provisions regarding training of emergency telecommunicators. **HB 1080**

EMERGING CROPS FUND

Act removes reversionary language in a provision in the fund that establishes a loan program for agribusinesses or greenhouse production horticultural enterprises. **SB 2436**

ENERGY

Act provides for a decreased sales tax rate for the sale of fuel to a producer of oil and gas used in enhanced oil recovery using carbon dioxide or the sequestration of carbon dioxide. **HB 841**

Act authorizes the public service commission to approve rate mitigation plans for newly constructed electric generating facilities. **HB 894**

ENGINEERS

Act amends provisions regarding a stipend program for civil engineering students who agree to work at the department of transportation for a certain amount of time. **HB 373**

FAIRGROUNDS COMPLEX

Act authorizes the fair commission to hire and designate law enforcement officers for the state fairgrounds complex. **HB 770**

Act provides that the department of finance and administration may have jurisdiction to administer, maintain and oversee security and law enforcement of the state fairgrounds complex. **HB 770**

LEGISLATIVE SUMMARIES

FIREARMS AND OTHER WEAPONS

Act clarifies the definition of “concealed” and the general requirements for a license to carry concealed weapons. **HB 2**

Act exempts information about a licensee from the public records act. **HB 485**

Act allows the spouse of an officer killed in the line of duty to purchase that officer’s sidearm. **SB 2047**

Act provides for federal firearms reporting and a mechanism for a mental health patient to petition for relief from firearms disability after discharge from treatment. **SB 2647**

FIRE MARSHAL

Act provides for arrest and certain police powers for the state chief deputy fire marshal and other deputy fire marshals. **HB 437**

FISH AND GAME

Act authorizes bow hunting during any open season for deer, turkey or small game. **SB 2048**

Act requires fish products to identify country of origin on labels. **SB 2513**

FOOD PRODUCT LABELING

Act prohibits the unlawful labeling of syrup products and provides for penalties for violations. **SB 2511**

Act requires fish products to identify country of origin on labels. **SB 2513**

Act preempts local laws regarding consumer incentive items and nutrition labeling for food products. **SB 2687**

GAMBLING

Act prohibits the operation of Internet sweepstakes cafes. **HB 974**

Act authorizes higher education courses in gaming management and casino hospitality services. **SB 2499**

GAMLING

Act authorizes higher education courses in gaming management and casino hospitality services. **SB 2499**

GUARDIAN AND WARD

Act creates a special general guardian, related to a minor who has no parent able to take responsibility for the minor. **SB 2375**

LEGISLATIVE SUMMARIES

HARBORS AND PORTS

Act regulates the liability of certain vessel pilots and maintains pilotage fees at reasonable amounts. **SB 2781**

HEALTH DISCOUNT PLANS

Act removes the sunset date from the requirements for health discount plans. **SB 2232**

HEALTH INSURANCE

Act prohibits policy provisions restricting an insurer from assigning benefits to health care provider, allows for insured to direct insurer to pay health care provider directly, and prohibits provider from billing the insured for the balance. **HB 374**

Act sets out requirements for risk-based capital of health insurers. **HB 534**

HIGHWAYS

Act creates the Mississippi highway patrol fallen officers' memorial highway act, providing for designation of streets, and providing for signage and distinctive markers. **HB 225**

HOMICIDE

Act creates the offense of child homicide and provides for maximum term of imprisonment. **SB 2255**

INSURANCE

Act creates management requirements of domestic insurers subject to registration. **HB 534**

Act includes health insurers under risk-based capital provisions. **HB 534**

Act provides that a disclaimer of affiliation be deemed as granted unless the commissioner notifies otherwise. **HB 534**

Act provides that insurer documents and materials are confidential. **HB 534**

Act requires financial or market analysis of insurers. **HB 534**

Act revises certain notice and filing requirements. **HB 534**

Act increases the reward offered by the insurance commissioner for information concerning willful destruction of property by fire or explosion. **SB 2675**

JAILS

Act sets out the amount municipalities may charge misdemeanor offenders for jail costs. **HB 80**

LEGISLATIVE SUMMARIES

LAW ENFORCEMENT OFFICERS

Act authorizes the fair commission to hire and designate law enforcement officers for the state fairgrounds complex. **HB 770**

Act allows the spouse of an officer killed in the line of duty to purchase that officer's sidearm. **SB 2047**

LEAD-BASED PAINT

Act removes the opt-out provision for lead-based paint activities under the accreditation act. **SB 2688**

MILK AND MILK PRODUCTS

Act relocates the fall dairy show held in Marion County to Lamar County. **HB 64**

MISSISSIPPI HIGHWAY PATROL FALLEN OFFICERS' MEMORIAL HIGHWAY ACT

Act creates the Mississippi highway patrol fallen officers' memorial highway act, providing for designation of streets, and providing for signage and distinctive markers. **HB 225**

MISSISSIPPI INDUSTRIES FOR THE BLIND

Act designates the members of the board of directors and deletes the requirement that salaries of the board be approved by the state personnel board. **HB 525**

MORTGAGES AND DEEDS OF TRUST

Act provides that a violation of the S.A.F.E. mortgage act exemption for a person financing no more than 10 residential units in one year does not affect the title or obligations of the purchaser/borrower under the terms of the loan. **HB 1233**

MOTOR VEHICLES AND TRAFFIC REGULATION

Act provides that fines resulting from automated traffic enforcement systems in other states will not be recognized unless the state is a member of the driver license compact. **HB 91**

Act repeals the requirement for a deposit of security for damages under the motor vehicle safety-responsibility act, and related provisions. **HB 1277**

Act revises the definition of off-road vehicle to certain include recreational vehicles. **SB 2457**

LEGISLATIVE SUMMARIES

MUNICIPALITIES

Act sets out the amount municipalities may charge misdemeanor offenders for jail costs. **HB 80**

Act prohibits certain convicted persons from serving on executive committees, and directs the county executive committee chairman to publish a call for a meeting. **HB 275**

Act authorizes localities to dispose of surplus property through a public auction. **HB 394**

Act authorizes charitable donations by the county to the YMCA and farmers' markets. **HB 1515**

Act prohibits additional charges for payment of court costs by electronic methods. **SB 2447**

OCCUPATIONAL LICENSING BOARDS

Act sets out provisions enabling licensing and certification for military members and their spouses. **SB 2419**

PATERNITY PROCEEDINGS

Act changes an internal reference in a provision regarding jurisdiction over paternity proceedings to refer to the uniform interstate family support act. **HB 720**

PERSONNEL ADMINISTRATION SYSTEM

Act revises the qualifications for the state personnel director to allow a juris doctor degree instead of an MBA. **SB 2074**

PETROLEUM PRODUCTS

Act extends the repeal dates on inspection laws relating to definitions and violations of provisions. **HB 1161**

PORT AUTHORITY

Act extends the repeal date on provisions authorizing the state port authority to use design-build method of contracting. **HB 129**

PROPERTY TAXES

Act revises the provision regarding notice of a tax sale and expiration of the time for redemption. **SB 2111**

Act clarifies the date when the ad valorem tax exemption takes effect for licensed free port warehouses. **SB 2536**

LEGISLATIVE SUMMARIES

Act excludes from the definition of home or homestead, for purposes of the homestead exemption, a lease for a person who is physically or mentally unable to care for themselves. **SB 2816**

PUBLIC BUILDINGS

Act directs that rating systems to determine high performance environmental buildings are not to exclude credits for certified forest products. **HB 488**

PUBLIC EMPLOYEES' RETIREMENT SYSTEM

Act excludes from the definition of earned compensation the value of maintenance or in-kind benefits provided to the employee. **HB 1174**

PUBLIC OFFICERS AND EMPLOYEES

Act requires state departments and officials to update Internet information about the agency or elected office. **HB 480**

PUBLIC PURCHASING AND CONTRACTING

Act requires that a purchasing certification program be required of all purchasing officials at state agencies. **HB 502**

Act prohibits a surcharge against a buyer using a state-issued credit, procurement, travel or fuel card. **HB 964**

Act authorizes purchasing offices to the location of a bidder's local office and inventory as a factor in the best value calculation. **SB 2073**

PUBLIC UTILITIES

Act authorizes the public service commission to approve rate mitigation plans for newly constructed electric generating facilities. **HB 894**

Act creates the public utility rate mitigation and reduction act. **HB 1134**

Act revises the exemption from the requirement of a certificate of convenience and necessity where more than one utility is operating within a municipality. **SB 2231**

Act reenacts certain sections relating to the public service commission to extend the repeal date. **SB 2567**

SALES AND USE TAX

Act provides for a decreased tax rate for the sale of fuel to a producer of oil and gas used in enhanced oil recovery using carbon dioxide or the sequestration of carbon dioxide. **HB 841**

Act authorizes a discount and retention of tax liability for compliance with local laws regarding the collection and payment of taxes. **HB 1285**

LEGISLATIVE SUMMARIES

Act includes cultural retail attractions in the sales tax incentive program for tourism projects. **SB 2806**

SCHOOLS AND EDUCATION

Act repeals provisions regarding filing of copies of bylaws and amendments under the compact for education. **HB 461**

Act provides for special elections for the filling of vacancies in districts under conservatorship where no school board members remain at the time of district reorganization. **HB 975**

Act enacts the Mississippi student religious liberties act of 2013. **SB 2633**

4Act provides for special elections for the filling of vacancies in districts under conservatorship where no school board members remain at the time of district reorganization. **SB 2779**

SECURED TRANSACTIONS

Act directs the secretary of state to publish the secured transactions chapter in print or online. **HB 85**

Act provides for the refusal or termination of false filings. **HB 1008**

SEED SALES

Act removes a requirement that quarterly reports be notarized, increases the fine for violations of provisions, and provides for administrative proceedings for violations. **HB 751**

SPECIAL FUELS TAX

Act exempts fuel sold for use by a commercial airline for new interstate air service by a new carrier in the market. **SB 2847**

STATE DEPARTMENTS AND AGENCIES

Act requires state departments and officials to update Internet information about the agency or elected office. **HB 480**

Act requires the reporting of transactions for conveyances of real property to department of finance and administration. **HB 1265**

Act requires notice of regular meetings to be posted on department website. **SB 2070**

SYRUP PRODUCTS

Act prohibits the unlawful labeling of syrup products and provides for penalties for violations. **SB 2511**

LEGISLATIVE SUMMARIES

TELEMARKETERS

Act reenacts the telephone solicitation act to extend the repeal date. **SB 2787**

TORT CLAIMS ACT

Act includes volunteer firefighters and fire departments within the scope of the act. **SB 2751**

TRANSPORTATION DEPARTMENT

Act amends provisions regarding a stipend program for civil engineering students who agree to work at the department of transportation for a certain amount of time. **HB 373**

Act authorizes the department to transfer certain property in Perry county to the United States forest service. **SB 2418**

UNEMPLOYMENT COMPENSATION

Act provides for general amendments regarding benefit eligibility and waiting period, administration of and amount of funds, setoffs against income tax refunds, and charges against employers for taxes and failure to respond to department requests. **HB 932**

UNIVERSITY OF SOUTHERN MISSISSIPPI

Act authorizes the use of bond proceeds for the purchase of a vessel for the Gulf Coast research laboratory. **SB 2728**

Act provides for the sale of certain university property by the department of finance and administration. **SB 2811**

VICTIMS OF CRIME

Act sets out grounds for when crime victim compensation is not to be awarded. **HB 710**

WATERS OF THE STATE

Act defines the boundaries of the territorial waters of the state. **HB 1072**

WILDLIFE, FISHERIES AND PARKS DEPARTMENT

Act provides for the transfer of real property from the department to the state veterans affairs board. **SB 2446**

WIND

Act extends the repeal date regarding safety marking requirements for anemometer towers. **SB 2769**

LEGISLATIVE SUMMARIES

YOUTH COURT

Act provides for conformance to the rules of appellate procedure for appeals from the youth court to the supreme court. **SB 2076**

CUMULATIVE TABLE OF CODE SECTIONS AFFECTED

MS Code Section	Action	Chapter No.	HB No./SB No.	Sec. No.	Pamphlet No.
3-3-1	Amended		hb1072	1	1
7-3-57	Amended		hb0085	1	1
9-1-49	Added		sb2647	2	1
9-7-3	Amended		hb0142	2	1
9-9-21	Amended		hb0142	1	1
9-9-35	Amended		hb0142	3	1
9-9-37	Amended		hb0943	1	1
11-46-1	Amended		sb2751	1	1
11-46-17	Amended		sb2751	2	1
17-25-1	Amended		sb2447	1	1
17-25-25	Amended		hb0394	1	1
19-3-71	Amended		hb0921	1	1
19-5-73	Reenacted		hb1515	2	1
19-5-93	Amended		hb1515	1	1
19-5-353	Amended		hb1080	1	1
19-5-357	Amended		hb1080	2	1
19-7-5	Amended		hb0394	2	1
21-17-1	Amended		hb0394	3	1
21-19-67	Amended		hb1515	3	1
21-19-69	Reenacted		hb1515	4	1
21-23-7	Amended		hb0080	1	1
23-15-153	Amended		sb2238	1	1
23-15-227	Amended		sb2239	1	1
23-15-315	Amended		hb0275	2	1
23-15-963	Amended		hb0533	1	1
25-9-119	Amended		sb2074	1	1
25-11-103	Amended		hb1174	1	1
25-41-13	Amended		sb2070	1	1
25-61-11.1	Added		hb0485	1	1
27-13-5	Amended		sb2684	1	1
27-13-7	Amended		sb2684	2	1
27-13-17	Amended		sb2684	3	1
27-31-53	Amended		sb2536	1	1
27-33-19	Amended		sb2816	1	1
27-43-3	Amended		sb2111	1	1
27-55-527	Amended		sb2847	1	1

CUMULATIVE TABLE OF CODE SECTIONS AFFECTED

MS Code Section	Action	Chapter No.	HB No./SB No.	Sec. No.	Pamphlet No.
27-65-19	Amended		hb0841	1	1
27-65-33	Amended		hb1285	1	1
27-104-153	Reenacted		hb0478	2	1
27-104-155	Amended		hb0478	1	1
27-104-163	Added		sb2070	2	1
29-5-2	Amended		hb0770	2	1
29-5-77	Amended		hb0770	3	1
29-5-81	Amended		hb0770	4	1
31-7-1	Amended		hb0502	1	1
31-7-9	Amended		hb0502	2	1
31-7-9	Amended		hb0964	1	1
31-7-13	Amended		sb2073	1	1
31-11-35	Amended		hb0488	1	1
37-3-2	Amended		sb2419	3	1
37-5-19	Amended		hb0975	2	1
37-5-19	Amended		sb2779	2	1
37-7-207	Amended		hb0975	3	1
37-7-207	Amended		sb2779	3	1
37-17-13	Amended		hb0975	1	1
37-17-13	Amended		sb2779	1	1
37-29-1	Amended		sb2499	4	1
37-29-63	Amended		sb2499	5	1
37-101-13	Amended		sb2499	3	1
37-101-292	Amended		hb0373	1	1
37-135-11	Repealed		hb0461	1	1
37-135-13	Repealed		hb0461	1	1
37-135-15	Repealed		hb0461	1	1
37-146-1	Added		hb0776	1	1
37-146-3	Added		hb0776	2	1
37-146-5	Added		hb0776	3	1
37-146-7	Added		hb0776	4	1
37-146-9	Added		hb0776	5	1
37-146-11	Added		hb0776	6	1
37-146-13	Added		hb0776	7	1
37-146-17	Added		hb0776	8	1
37-146-19	Added		hb0776	9	1

CUMULATIVE TABLE OF CODE SECTIONS AFFECTED

MS Code Section	Action	Chapter No.	HB No./SB No.	Sec. No.	Pamphlet No.
37-146-21	Added		hb0776	10	1
41-21-101	Amended		sb2647	4	1
41-29-117	Amended		sb2193	1	1
41-29-121	Amended		sb2193	2	1
41-59-35	Amended		sb2202	2	1
41-60-11	Amended		sb2202	1	1
43-3-103	Amended		hb0525	1	1
43-19-101	Amended		sb2338	1	1
43-21-651	Amended		sb2076	1	1
45-2-1	Amended		sb2751	4	1
45-2-21	Amended		sb2751	5	1
45-9-101	Amended		hb0002	4	1
45-9-101	Amended		hb0485	2	1
45-9-103	Added		sb2647	1	1
45-9-131	Amended		sb2047	1	1
45-11-1	Amended		hb0437	1	1
49-7-38	Amended		sb2048	1	1
49-17-509	Amended		sb2688	1	1
57-26-1	Amended		sb2806	1	1
59-1-42	Added		sb2781	2	1
59-5-37	Amended		hb0129	1	1
61-9-3	Amended		hb0279	1	1
61-19-1	Amended		sb2769	1	1
63-15-11	Repealed		hb1277	1	1
63-15-13	Repealed		hb1277	2	1
63-15-15	Repealed		hb1277	3	1
63-15-17	Repealed		hb1277	4	1
63-15-19	Repealed		hb1277	5	1
63-15-21	Repealed		hb1277	6	1
63-31-1	Amended		sb2457	1	1
63-31-3	Amended		sb2457	2	1
65-3-38.1	Amended		hb0225	3	1
65-3-71.102	Amended		sb2496	1	1
67-3-7	Amended		sb2183	2	1
67-3-11	Amended		sb2183	1	1
67-3-13	Amended		sb2183	3	1

CUMULATIVE TABLE OF CODE SECTIONS AFFECTED

MS Code Section	Action	Chapter No.	HB No./SB No.	Sec. No.	Pamphlet No.
67-3-15	Amended		sb2183	4	1
69-2-13	Amended		sb2436	1	1
69-3-6	Amended		hb0751	1	1
69-3-25	Amended		hb0751	2	1
69-3-29	Amended		hb0751	3	1
69-5-107	Amended		hb0064	1	1
69-7-607	Amended		sb2513	1	1
69-25-51	Amended		hb0751	4	1
71-5-5	Amended		hb0932	1	1
71-5-7	Amended		hb0932	2	1
71-5-11	Amended		hb0932	3	1
71-5-13	Amended		hb0932	14	1
71-5-19	Amended		hb0932	4	1
71-5-351	Amended		hb0932	5	1
71-5-353	Amended		hb0932	6	1
71-5-355	Amended		hb0932	7	1
71-5-357	Amended		hb0932	15	1
71-5-361	Amended		hb0932	16	1
71-5-367	Amended		hb0932	8	1
71-5-389	Amended		hb0932	9	1
71-5-453	Amended		hb0932	10	1
71-5-455	Amended		hb0932	11	1
71-5-501	Amended		hb0932	17	1
71-5-505	Amended		hb0932	12	1
71-5-511	Amended		hb0932	13	1
73-1-21	Amended		sb2419	4	1
73-1-23	Amended		sb2419	5	1
73-2-11	Amended		sb2419	6	1
73-4-1	Reenacted		hb1165	1	1
73-4-3	Reenacted		hb1165	2	1
73-4-5	Reenacted		hb1165	3	1
73-4-7	Reenacted		hb1165	4	1
73-4-9	Reenacted		hb1165	5	1
73-4-11	Reenacted		hb1165	6	1
73-4-13	Reenacted		hb1165	7	1
73-4-15	Reenacted		hb1165	8	1

CUMULATIVE TABLE OF CODE SECTIONS AFFECTED

MS Code Section	Action	Chapter No.	HB No./SB No.	Sec. No.	Pamphlet No.
73-4-17	Reenacted		hb1165	9	1
73-4-19	Reenacted		hb1165	10	1
73-4-21	Reenacted		hb1165	11	1
73-4-23	Amended		sb2419	7	1
73-4-23	Reenacted		hb1165	12	1
73-4-25	Reenacted		hb1165	13	1
73-4-27	Reenacted		hb1165	14	1
73-4-29	Reenacted		hb1165	15	1
73-4-31	Reenacted		hb1165	16	1
73-4-33	Reenacted		hb1165	17	1
73-4-35	Reenacted		hb1165	18	1
73-4-37	Reenacted		hb1165	19	1
73-4-39	Reenacted		hb1165	20	1
73-4-41	Reenacted		hb1165	21	1
73-4-43	Reenacted		hb1165	22	1
73-4-45	Reenacted		hb1165	23	1
73-4-47	Reenacted		hb1165	24	1
73-4-49	Reenacted		hb1165	25	1
73-4-51	Reenacted		hb1165	26	1
73-4-53	Amended		hb1165	27	1
73-5-21	Amended		sb2419	8	1
73-6-13	Amended		sb2419	9	1
73-7-23	Amended		sb2419	10	1
73-9-24	Amended		sb2419	11	1
73-10-15	Amended		sb2419	12	1
73-11-51	Amended		sb2419	13	1
73-13-35	Amended		sb2419	14	1
73-14-25	Amended		sb2419	15	1
73-15-19	Amended		sb2419	16	1
73-15-21	Amended		sb2419	17	1
73-15-101	Amended		sb2419	18	1
73-17-11	Amended		sb2419	19	1
73-19-25	Amended		sb2419	20	1
73-21-87	Amended		sb2419	21	1
73-23-51	Amended		sb2419	22	1
73-23-53	Amended		sb2419	23	1

CUMULATIVE TABLE OF CODE SECTIONS AFFECTED

MS Code Section	Action	Chapter No.	HB No./SB No.	Sec. No.	Pamphlet No.
73-24-21	Amended		sb2419	24	1
73-25-21	Amended		sb2419	25	1
73-27-5	Amended		sb2419	26	1
73-29-19	Amended		sb2419	27	1
73-30-15	Amended		sb2419	28	1
73-31-14	Amended		sb2419	29	1
73-31-15	Amended		sb2419	30	1
73-33-9	Amended		sb2419	31	1
73-34-51	Amended		sb2419	32	1
73-35-7	Amended		sb2419	33	1
73-35-13	Amended		sb2419	34	1
73-36-31	Amended		sb2419	35	1
73-38-23	Amended		sb2419	36	1
73-39-71	Amended		sb2419	37	1
73-53-13	Amended		sb2419	38	1
73-54-23	Amended		sb2419	39	1
73-60-25	Amended		sb2419	40	1
73-63-39	Amended		sb2419	41	1
73-65-7	Amended		sb2419	42	1
73-67-25	Amended		sb2419	43	1
73-69-11	Amended		sb2419	44	1
73-71-21	Amended		sb2419	45	1
73-73-11	Amended		sb2419	46	1
73-73-17	Amended		sb2419	47	1
75-9-501.1	Added		hb1008	1	1
75-9-510	Amended		hb1008	2	1
75-9-516	Amended		hb1008	3	1
75-29-201	Amended		sb2511	1	1
75-29-203	Amended		sb2511	2	1
75-29-205	Amended		sb2511	3	1
75-29-207	Repealed		sb2511	6	1
75-29-211	Amended		sb2511	4	1
75-55-5	Amended		hb1161	1	1
75-55-37	Amended		hb1161	2	1
75-60-3	Amended		sb2786	1	1
75-60-4	Amended		sb2786	2	1

CUMULATIVE TABLE OF CODE SECTIONS AFFECTED

MS Code Section	Action	Chapter No.	HB No./SB No.	Sec. No.	Pamphlet No.
75-60-5	Amended		sb2786	3	1
75-60-11	Amended		sb2786	4	1
75-60-19	Amended		sb2786	5	1
75-60-23	Amended		sb2786	6	1
75-60-25	Amended		sb2786	7	1
75-60-45	Added		sb2786	8	1
75-67-50i	Reenacted		hb0559	1	1
75-67-503	Reenacted		hb0559	2	1
75-67-505	Reenacted		hb0559	3	1
75-67-507	Reenacted		hb0559	4	1
75-67-509	Reenacted		hb0559	5	1
75-67-511	Reenacted		hb0559	6	1
75-67-513	Reenacted		hb0559	7	1
75-67-515	Reenacted		hb0559	8	1
75-67-516	Reenacted		hb0559	9	1
75-67-517	Reenacted		hb0559	10	1
75-67-519	Reenacted		hb0559	11	1
75-67-521	Reenacted		hb0559	12	1
75-67-523	Reenacted		hb0559	13	1
75-67-525	Reenacted		hb0559	14	1
75-67-527	Reenacted		hb0559	15	1
75-67-529	Reenacted		hb0559	16	1
75-67-531	Reenacted		hb0559	17	1
75-67-533	Reenacted		hb0559	18	1
75-67-535	Reenacted		hb0559	19	1
75-67-537	Reenacted		hb0559	20	1
75-67-539	Repealed		hb0559	21	1
75-76-5	Amended		hb0974	5	1
75-76-34	Amended		sb2499	1	1
75-76-55	Amended		sb2499	2	1
77-1-1	Reenacted		sb2567	1	1
77-1-3	Reenacted		sb2567	2	1
77-1-5	Reenacted		sb2567	3	1
77-1-6	Reenacted		sb2567	4	1
77-1-11	Reenacted		sb2567	5	1
77-1-15	Reenacted		sb2567	6	1

CUMULATIVE TABLE OF CODE SECTIONS AFFECTED

MS Code Section	Action	Chapter No.	HB No./SB No.	Sec. No.	Pamphlet No.
77-1-17	Reenacted		sb2567	7	1
77-1-19	Reenacted		sb2567	8	1
77-1-21	Reenacted		sb2567	9	1
77-1-25	Reenacted		sb2567	10	1
77-1-27	Reenacted		sb2567	11	1
77-1-29	Reenacted		sb2567	12	1
77-1-31	Reenacted		sb2567	13	1
77-1-33	Reenacted		sb2567	14	1
77-1-35	Reenacted		sb2567	15	1
77-1-37	Reenacted		sb2567	16	1
77-1-39	Reenacted		sb2567	17	1
77-1-41	Reenacted		sb2567	18	1
77-1-43	Reenacted		sb2567	19	1
77-1-47	Reenacted		sb2567	20	1
77-1-49	Reenacted		sb2567	21	1
77-1-51	Amended		sb2567	22	1
77-1-55	Amended		sb2567	23	1
77-3-5	Amended		sb2231	2	1
77-3-15	Amended		sb2231	1	1
77-3-106	Added		hb0894	1	1
77-3-111	Added		hb1134	3	1
77-3-113	Added		hb1134	4	1
77-3-115	Added		hb1134	5	1
77-3-117	Added		hb1134	6	1
77-3-119	Added		hb1134	7	1
77-3-121	Added		hb1134	8	1
77-3-123	Added		hb1134	9	1
77-3-125	Added		hb1134	10	1
77-3-127	Added		hb1134	11	1
77-3-701	Reenacted		sb2787	1	1
77-3-703	Reenacted		sb2787	2	1
77-3-705	Reenacted		sb2787	3	1
77-3-707	Reenacted		sb2787	4	1
77-3-709	Reenacted		sb2787	5	1
77-3-711	Reenacted		sb2787	6	1
77-3-713	Reenacted		sb2787	7	1

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MS Code Section	Action	Chapter No.	HB No./SB No.	Sec. No.	Pamphlet No.
77-3-715	Reenacted		sb2787	8	1
77-3-717	Reenacted		sb2787	9	1
77-3-719	Reenacted		sb2787	10	1
77-3-721	Reenacted		sb2787	11	1
77-3-723	Reenacted		sb2787	12	1
77-3-725	Reenacted		sb2787	13	1
77-3-727	Reenacted		sb2787	14	1
77-3-729	Reenacted		sb2787	15	1
77-3-731	Reenacted		sb2787	16	1
77-3-733	Reenacted		sb2787	17	1
77-3-735	Reenacted		sb2787	18	1
77-3-737	Amended		sb2787	19	1
79-7-1	Amended		sb2684	4	1
79-11-57	Amended		sb2684	5	1
79-17-41	Repealed		sb2684	6	1
81-5-77	Amended		sb2194	1	1
81-18-5	Reenacted		hb1233	1	1
81-22-1	Reenacted		sb2557	1	1
81-22-3	Reenacted		sb2557	2	1
81-22-5	Reenacted		sb2557	3	1
81-22-7	Reenacted		sb2557	4	1
81-22-9	Reenacted		sb2557	5	1
81-22-11	Reenacted		sb2557	6	1
81-22-13	Reenacted		sb2557	7	1
81-22-15	Reenacted		sb2557	8	1
81-22-17	Reenacted		sb2557	9	1
81-22-19	Reenacted		sb2557	10	1
81-22-21	Reenacted		sb2557	11	1
81-22-23	Reenacted		sb2557	12	1
81-22-25	Reenacted		sb2557	13	1
81-22-27	Reenacted		sb2557	14	1
81-22-28	Reenacted		sb2557	15	1
81-22-31	Amended		sb2557	16	1
83-1-35	Amended		sb2675	1	1
83-5-205	Amended		hb0534	1	1
83-5-209	Amended		hb0534	2	1

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MS Code Section	Action	Chapter No.	HB No./SB No.	Sec. No.	Pamphlet No.
83-5-401	Amended		hb0534	3	1
83-5-403	Amended		hb0534	4	1
83-5-405	Amended		hb0534	5	1
83-5-417	Amended		hb0534	6	1
83-5-427	Amended		hb0534	7	1
83-6-1	Amended		hb0534	8	1
83-6-5	Amended		hb0534	9	1
83-6-17	Amended		hb0534	10	1
83-6-21	Amended		hb0534	11	1
83-6-24	Amended		hb0534	12	1
83-6-26	Added		hb0534	13	1
83-6-27	Amended		hb0534	14	1
83-6-29	Amended		hb0534	15	1
83-9-3	Amended		hb0374	1	1
83-9-5	Amended		hb0374	2	1
83-64-1	Amended		sb2232	1	1
93-9-15	Amended		hb0720	1	1
93-11-103	Amended		sb2210	1	1
93-11-105	Amended		sb2210	2	1
93-13-37	Amended		sb2375	1	1
93-13-55	Amended		sb2375	2	1
93-13-57	Amended		sb2375	3	1
93-13-67	Amended		sb2375	4	1
93-13-77	Amended		sb2375	5	1
95-9-1	Amended		sb2751	3	1
97-3-25	Amended		sb2255	1	1
97-5-33	Amended		sb2197	1	1
97-33-1	Amended		hb0974	2	1
97-33-7	Amended		hb0974	3	1
97-33-9	Amended		hb0974	4	1
97-37-1	Amended		hb0002	1	1
97-37-5	Amended		sb2647	3	1
97-37-15	Amended		hb0002	2	1
97-37-19	Amended		hb0002	3	1
97-45-3	Amended		hb0686	1	1
99-3-7	Amended		hb0437	2	1

CUMULATIVE TABLE OF CODE SECTIONS AFFECTED

MS Code Section	Action	Chapter No.	HB No./SB No.	Sec. No.	Pamphlet No.
99-41-17	Amended		hb0710	1	1

2013 GENERAL LAWS OF MISSISSIPPI HB 2

Mississippi Legislature

2013 Regular Session

House Bill 2

Description: Weapons; clarify definition of concealed.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Three/Fifths

Effective date: July 1, 2013

Chapter Number: 308

History of Actions:

- | | | | |
|----|-------|-----|---|
| 1 | 01/08 | (H) | Referred To Judiciary B |
| 2 | 01/24 | (H) | Title Suff Do Pass Comm Sub |
| 3 | 01/29 | (H) | Committee Substitute Adopted |
| 4 | 01/29 | (H) | Passed {Vote} |
| 5 | 01/30 | (H) | Transmitted To Senate |
| 6 | 02/13 | (S) | Referred To Wildlife, Fisheries and Parks |
| 7 | 02/20 | (S) | Title Suff Do Pass |
| 8 | 02/27 | (S) | Passed {Vote} |
| 9 | 02/27 | (S) | Immediate Release |
| 10 | 02/27 | (S) | Transmitted To House |
| 11 | 02/28 | (S) | Enrolled Bill Signed |
| 12 | 02/28 | (H) | Enrolled Bill Signed |
| 13 | 03/04 | | Approved by Governor |

Code Section: A 097-0037-0001, A 097-0037-0015, A 097-0037-0019, A 045-0009-0101

----- Additional Information -----

House Committee: Judiciary B

Senate Committee: Wildlife, Fisheries and Parks

Principal Author: Gipson

Additional Authors: Formby, Staples, Monsour, Byrd, Bain, Brown (20th), DeBar, Mims, Hood, Steverson, Arnold, Upshaw, Horne, Dixon, Lane, Shirley, Ladner, Kinkade

Title: AN ACT TO AMEND SECTIONS 97-37-1, 97-37-15, 97-37-19 AND 45-9-101, MISSISSIPPI CODE OF 1972, TO CLARIFY THE CARRYING OF CONCEALED WEAPONS; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI HB 2

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Judiciary B

By: Representatives Gipson, Formby, Staples, Monsour, Byrd, Bain, Brown (20th), DeBar, Mims, Hood, Steverson, Arnold, Upshaw, Horne, Dixon, Lane, Shirley, Ladner, Kinkade

House Bill 2

(As Sent to Governor)

AN ACT TO AMEND SECTIONS 97-37-1, 97-37-15, 97-37-19 AND 45-9-101, MISSISSIPPI CODE OF 1972, TO CLARIFY THE CARRYING OF CONCEALED WEAPONS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 97-37-1, Mississippi Code of 1972, is amended as follows:

97-37-1. (1) Except as otherwise provided in Section 45-9-101, any person who carries, concealed* * * on or about one's person, any bowie knife, dirk knife, butcher knife, switchblade knife, metallic knuckles, blackjack, slingshot, pistol, revolver, or any rifle with a barrel of less than sixteen (16) inches in length, or any shotgun with a barrel of less than eighteen (18) inches in length, machine gun or any fully automatic firearm or deadly weapon, or any muffler or silencer for any firearm, whether or not it is accompanied by a firearm, or uses or attempts to use against another person any imitation firearm, shall, upon conviction, be punished as follows:

(a) By a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00), or by imprisonment in the county jail for not more than six (6) months, or both, in the discretion of the court, for the first conviction under this section.

(b) By a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00), and imprisonment in the county jail for not less than thirty (30) days nor more than six (6) months, for the second conviction under this section.

(c) By confinement in the custody of the Department of Corrections for not less than one (1) year nor more than five

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(5) years, for the third or subsequent conviction under this section.

(d) By confinement in the custody of the Department of Corrections for not less than one (1) year nor more than ten (10) years for any person previously convicted of any felony who is convicted under this section.

(2) It shall not be a violation of this section for any person over the age of eighteen (18) years to carry a firearm or deadly weapon concealed* * * within the confines of his own home or his place of business, or any real property associated with his home or business or within any motor vehicle.

(3) It shall not be a violation of this section for any person to carry a firearm or deadly weapon concealed* * * if the possessor of the weapon is then engaged in a legitimate weapon-related sports activity or is going to or returning from such activity. For purposes of this subsection, "legitimate weapon-related sports activity" means hunting, fishing, target shooting or any other legal* * * activity which normally involves the use of a firearm or other weapon.

(4) For the purposes of this section, "concealed" means hidden or obscured from common observation and shall not include any weapon listed in subsection (1) of this section, including, but not limited to, a loaded or unloaded pistol carried upon the person in a sheath, belt holster or shoulder holster that is wholly or partially visible, or carried upon the person in a scabbard or case for carrying the weapon that is wholly or partially visible.

SECTION 2. Section 97-37-15, Mississippi Code of 1972, is amended as follows:

97-37-15. Any parent, guardian or custodian who shall knowingly suffer or permit any child under the age of eighteen (18) years to have or to own, or to carry* * *, any weapon the carrying of which concealed is prohibited by Section 97-37-1, shall be guilty of a misdemeanor, and, on conviction, shall be fined not more than One Thousand Dollars (\$1,000.00), and shall be imprisoned not more than six (6) months in the county jail. The provisions of this section shall not apply to a minor who is exempt from the provisions of Section 97-37-14.

SECTION 3. Section 97-37-19, Mississippi Code of 1972, is amended as follows:

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97-37-19. If any person, having or carrying any dirk, dirk-knife, sword, sword-cane, or any deadly weapon, or other weapon the carrying of which concealed is prohibited by Section 97-37-1, shall, in the presence of* * * another person, brandish or wield the same in a* * * threatening manner, not in necessary self-defense, or shall in any manner unlawfully use the same in any fight or quarrel, the person so offending, upon conviction thereof, shall be fined in a sum not exceeding Five Hundred Dollars (\$500.00) or be imprisoned in the county jail not exceeding three (3) months, or both. In prosecutions under this section it shall not be necessary for the affidavit or indictment to aver, nor for the state to prove on the trial, that any gun, pistol, or other firearm was charged, loaded, or in condition to be discharged.

SECTION 4. Section 45-9-101, Mississippi Code of 1972, is amended as follows:

45-9-101. (1) (a) The Department of Public Safety is authorized to issue licenses to carry stun guns, concealed pistols or revolvers to persons qualified as provided in this section. Such licenses shall be valid throughout the state for a period of five (5) years from the date of issuance. Any person possessing a valid license issued pursuant to this section may carry a stun gun, concealed pistol or concealed revolver.

(b) The licensee must carry the license, together with valid identification, at all times in which the licensee is carrying a stun gun, concealed pistol or revolver and must display both the license and proper identification upon demand by a law enforcement officer. A violation of the provisions of this paragraph (b) shall constitute a noncriminal violation with a penalty of Twenty-five Dollars (\$25.00) and shall be enforceable by summons.

(2) The Department of Public Safety shall issue a license if the applicant:

(a) Is a resident of the state and has been a resident for twelve (12) months or longer immediately preceding the filing of the application. However, this residency requirement may be waived, provided the applicant possesses a valid permit from another state, is active military personnel stationed in Mississippi, or is a retired law enforcement officer establishing residency in the state;

2013 GENERAL LAWS OF MISSISSIPPI HB 2

(b) (i) Is twenty-one (21) years of age or older; or

(ii) Is at least eighteen (18) years of age but not yet twenty-one (21) years of age and the applicant:

1. Is a member or veteran of the United States Armed Forces; and

2. Holds a valid Mississippi driver's license or identification card with the "Veteran" designation issued by the Department of Public Safety.

(c) Does not suffer from a physical infirmity which prevents the safe handling of a stun gun, pistol or revolver;

(d) Is not ineligible to possess a firearm by virtue of having been convicted of a felony in a court of this state, of any other state, or of the United States without having been pardoned for same;

(e) Does not chronically or habitually abuse controlled substances to the extent that his normal faculties are impaired. It shall be presumed that an applicant chronically and habitually uses controlled substances to the extent that his faculties are impaired if the applicant has been voluntarily or involuntarily committed to a treatment facility for the abuse of a controlled substance or been found guilty of a crime under the provisions of the Uniform Controlled Substances Law or similar laws of any other state or the United States relating to controlled substances within a three-year period immediately preceding the date on which the application is submitted;

(f) Does not chronically and habitually use alcoholic beverages to the extent that his normal faculties are impaired. It shall be presumed that an applicant chronically and habitually uses alcoholic beverages to the extent that his normal faculties are impaired if the applicant has been voluntarily or involuntarily committed as an alcoholic to a treatment facility or has been convicted of two (2) or more offenses related to the use of alcohol under the laws of this state or similar laws of any other state or the United States within the three-year period immediately preceding the date on which the application is submitted;

(g) Desires a legal means to carry a stun gun, concealed pistol or revolver to defend himself;

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(h) Has not been adjudicated mentally incompetent, or has waited five (5) years from the date of his restoration to capacity by court order;

(i) Has not been voluntarily or involuntarily committed to a mental institution or mental health treatment facility unless he possesses a certificate from a psychiatrist licensed in this state that he has not suffered from disability for a period of five (5) years;

(j) Has not had adjudication of guilt withheld or imposition of sentence suspended on any felony unless three (3) years have elapsed since probation or any other conditions set by the court have been fulfilled;

(k) Is not a fugitive from justice; and

(l) Is not disqualified to possess* * * a weapon based on federal law.

(3) The Department of Public Safety may deny a license if the applicant has been found guilty of one or more crimes of violence constituting a misdemeanor unless three (3) years have elapsed since probation or any other conditions set by the court have been fulfilled or expunction has occurred prior to the date on which the application is submitted, or may revoke a license if the licensee has been found guilty of one or more crimes of violence within the preceding three (3) years. The department shall, upon notification by a law enforcement agency or a court and subsequent written verification, suspend a license or the processing of an application for a license if the licensee or applicant is arrested or formally charged with a crime which would disqualify such person from having a license under this section, until final disposition of the case. The provisions of subsection (7) of this section shall apply to any suspension or revocation of a license pursuant to the provisions of this section.

(4) The application shall be completed, under oath, on a form promulgated by the Department of Public Safety and shall include only:

(a) The name, address, place and date of birth, race, sex and occupation of the applicant;

(b) The driver's license number or social security number of applicant;

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(c) Any previous address of the applicant for the two (2) years preceding the date of the application;

(d) A statement that the applicant is in compliance with criteria contained within subsections (2) and (3) of this section;

(e) A statement that the applicant has been furnished a copy of this section and is knowledgeable of its provisions;

(f) A conspicuous warning that the application is executed under oath and that a knowingly false answer to any question, or the knowing submission of any false document by the applicant, subjects the applicant to criminal prosecution; and

(g) A statement that the applicant desires a legal means to carry a stun gun, concealed pistol or revolver to defend himself.

(5) The applicant shall submit only the following to the Department of Public Safety:

(a) A completed application as described in subsection (4) of this section;

(b) A full-face photograph of the applicant taken within the preceding thirty (30) days in which the head, including hair, in a size as determined by the Department of Public Safety, except that an applicant who is younger than twenty-one (21) years of age must submit a photograph in profile of the applicant;

(c) A nonrefundable license fee of One Hundred Dollars (\$100.00). Costs for processing the set of fingerprints as required in paragraph (d) of this subsection shall be borne by the applicant. Honorably retired law enforcement officers shall be exempt from the payment of the license fee;

(d) A full set of fingerprints of the applicant administered by the Department of Public Safety; and

(e) A waiver authorizing the Department of Public Safety access to any records concerning commitments of the applicant to any of the treatment facilities or institutions referred to in subsection (2) and permitting access to all the applicant's criminal records.

(6) (a) The Department of Public Safety, upon receipt of the items listed in subsection (5) of this section, shall

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forward the full set of fingerprints of the applicant to the appropriate agencies for state and federal processing.

(b) The Department of Public Safety shall forward a copy of the applicant's application to the sheriff of the applicant's county of residence and, if applicable, the police chief of the applicant's municipality of residence. The sheriff of the applicant's county of residence and, if applicable, the police chief of the applicant's municipality of residence may, at his discretion, participate in the process by submitting a voluntary report to the Department of Public Safety containing any readily discoverable prior information that he feels may be pertinent to the licensing of any applicant. The reporting shall be made within thirty (30) days after the date he receives the copy of the application. Upon receipt of a response from a sheriff or police chief, such sheriff or police chief shall be reimbursed at a rate set by the department.

(c) The Department of Public Safety shall, within forty-five (45) days after the date of receipt of the items listed in subsection (5) of this section:

(i) Issue the license;

(ii) Deny the application based solely on the ground that the applicant fails to qualify under the criteria listed in subsections (2) and (3) of this section. If the Department of Public Safety denies the application, it shall notify the applicant in writing, stating the ground for denial, and the denial shall be subject to the appeal process set forth in subsection (7); or

(iii) Notify the applicant that the department is unable to make a determination regarding the issuance or denial of a license within the forty-five-day period prescribed by this subsection, and provide an estimate of the amount of time the department will need to make the determination.

(d) In the event a legible set of fingerprints, as determined by the Department of Public Safety and the Federal Bureau of Investigation, cannot be obtained after a minimum of two (2) attempts, the Department of Public Safety shall determine eligibility based upon a name check by the Mississippi Highway Safety Patrol and a Federal Bureau of Investigation name check conducted by the Mississippi Highway Safety Patrol at the request of the Department of Public Safety.

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(7) (a) If the Department of Public Safety denies the issuance of a license, or suspends or revokes a license, the party aggrieved may appeal such denial, suspension or revocation to the Commissioner of Public Safety, or his authorized agent, within thirty (30) days after the aggrieved party receives written notice of such denial, suspension or revocation. The Commissioner of Public Safety, or his duly authorized agent, shall rule upon such appeal within thirty (30) days after the appeal is filed and failure to rule within this thirty-day period shall constitute sustaining such denial, suspension or revocation. Such review shall be conducted pursuant to such reasonable rules and regulations as the Commissioner of Public Safety may adopt.

(b) If the revocation, suspension or denial of issuance is sustained by the Commissioner of Public Safety, or his duly authorized agent pursuant to paragraph (a) of this subsection, the aggrieved party may file within ten (10) days after the rendition of such decision a petition in the circuit or county court of his residence for review of such decision. A hearing for review shall be held and shall proceed before the court without a jury upon the record made at the hearing before the Commissioner of Public Safety or his duly authorized agent. No such party shall be allowed to carry a stun gun, concealed pistol or revolver pursuant to the provisions of this section while any such appeal is pending.

(8) The Department of Public Safety shall maintain an automated listing of license holders and such information shall be available online, upon request, at all times, to all law enforcement agencies through the Mississippi Crime Information Center. However, the records of the department relating to applications for licenses to carry stun guns, concealed pistols or revolvers and records relating to license holders shall be exempt from the provisions of the Mississippi Public Records Act of 1983 for a period of forty-five (45) days from the date of the issuance of the license or the final denial of an application.

(9) Within thirty (30) days after the changing of a permanent address, or within thirty (30) days after having a license lost or destroyed, the licensee shall notify the Department of Public Safety in writing of such change or loss. Failure to notify the Department of Public Safety pursuant to the provisions of this subsection shall constitute a noncriminal

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violation with a penalty of Twenty-five Dollars (\$25.00) and shall be enforceable by a summons.

(10) In the event that a stun gun, concealed pistol or revolver license is lost or destroyed, the person to whom the license was issued shall comply with the provisions of subsection (9) of this section and may obtain a duplicate, or substitute thereof, upon payment of Fifteen Dollars (\$15.00) to the Department of Public Safety, and furnishing a notarized statement to the department that such license has been lost or destroyed.

(11) A license issued under this section shall be revoked if the licensee becomes ineligible under the criteria set forth in subsection (2) of this section.

(12) (a) No less than ninety (90) days prior to the expiration date of the license, the Department of Public Safety shall mail to each licensee a written notice of the expiration and a renewal form prescribed by the department. The licensee must renew his license on or before the expiration date by filing with the department the renewal form, a notarized affidavit stating that the licensee remains qualified pursuant to the criteria specified in subsections (2) and (3) of this section, and a full set of fingerprints administered by the Department of Public Safety or the sheriff of the county of residence of the licensee.

The first renewal may be processed by mail and the subsequent renewal must be made in person. Thereafter every other renewal may be processed by mail to assure that the applicant must appear in person every ten (10) years for the purpose of obtaining a new photograph.

(i) Except as provided in this subsection, a renewal fee of Fifty Dollars (\$50.00) shall also be submitted along with costs for processing the fingerprints;

(ii) Honorably retired law enforcement officers shall be exempt from the renewal fee; and

(iii) The renewal fee for a Mississippi resident aged sixty-five (65) years of age or older shall be Twenty-five Dollars (\$25.00).

(b) The Department of Public Safety shall forward the full set of fingerprints of the applicant to the appropriate agencies for state and federal processing. The license shall

2013 GENERAL LAWS OF MISSISSIPPI HB 2

be renewed upon receipt of the completed renewal application and appropriate payment of fees.

(c) A licensee who fails to file a renewal application on or before its expiration date must renew his license by paying a late fee of Fifteen Dollars (\$15.00). No license shall be renewed six (6) months or more after its expiration date, and such license shall be deemed to be permanently expired. A person whose license has been permanently expired may reapply for licensure; however, an application for licensure and fees pursuant to subsection (5) of this section must be submitted, and a background investigation shall be conducted pursuant to the provisions of this section.

(13) No license issued pursuant to this section shall authorize any person to carry a stun gun, concealed pistol or revolver into any place of nuisance as defined in Section 95-3-1, Mississippi Code of 1972; any police, sheriff or highway patrol station; any detention facility, prison or jail; any courthouse; any courtroom, except that nothing in this section shall preclude a judge from carrying a concealed weapon or determining who will carry a concealed weapon in his courtroom; any polling place; any meeting place of the governing body of any governmental entity; any meeting of the Legislature or a committee thereof; any school, college or professional athletic event not related to firearms; any portion of an establishment, licensed to dispense alcoholic beverages for consumption on the premises, that is primarily devoted to dispensing alcoholic beverages; any portion of an establishment in which beer or light wine is consumed on the premises, that is primarily devoted to such purpose; any elementary or secondary school facility; any junior college, community college, college or university facility unless for the purpose of participating in any authorized firearms-related activity; inside the passenger terminal of any airport, except that no person shall be prohibited from carrying any legal firearm into the terminal if the firearm is encased for shipment, for purposes of checking such firearm as baggage to be lawfully transported on any aircraft; any church or other place of worship; or any place where the carrying of firearms is prohibited by federal law. In addition to the places enumerated in this subsection, the carrying of a stun gun, concealed pistol or revolver may be disallowed in any place in the discretion of the person or entity exercising control over the physical location of such place by the placing of

2013 GENERAL LAWS OF MISSISSIPPI HB 2

a written notice clearly readable at a distance of not less than ten (10) feet that the "carrying of a pistol or revolver is prohibited." No license issued pursuant to this section shall authorize the participants in a parade or demonstration for which a permit is required to carry a stun gun, concealed pistol or revolver.

(14) A law enforcement officer as defined in Section 45-6-3, chiefs of police, sheriffs and persons licensed as professional bondsmen pursuant to Chapter 39, Title 83, Mississippi Code of 1972, shall be exempt from the licensing requirements of this section. The licensing requirements of this section do not apply to the carrying by any person of a stun gun, pistol or revolver, knife, or other deadly weapon that is not concealed as defined in Section 97-37-1.

(15) Any person who knowingly submits a false answer to any question on an application for a license issued pursuant to this section, or who knowingly submits a false document when applying for a license issued pursuant to this section, shall, upon conviction, be guilty of a misdemeanor and shall be punished as provided in Section 99-19-31, Mississippi Code of 1972.

(16) All fees collected by the Department of Public Safety pursuant to this section shall be deposited into a special fund hereby created in the State Treasury and shall be used for implementation and administration of this section. After the close of each fiscal year, the balance in this fund shall be certified to the Legislature and then may be used by the Department of Public Safety as directed by the Legislature.

(17) All funds received by a sheriff or police chief pursuant to the provisions of this section shall be deposited into the general fund of the county or municipality, as appropriate, and shall be budgeted to the sheriff's office or police department as appropriate.

(18) Nothing in this section shall be construed to require or allow the registration, documentation or providing of serial numbers with regard to any stun gun or firearm.* * *

(19) Any person holding a valid unrevoked and unexpired license to carry stun guns, concealed pistols or revolvers issued in another state shall have such license recognized by this state to carry stun guns, concealed pistols or revolvers. The Department of Public Safety is authorized to enter into a

2013 GENERAL LAWS OF MISSISSIPPI HB 2

reciprocal agreement with another state if that state requires a written agreement in order to recognize licenses to carry stun guns, concealed pistols or revolvers issued by this state.

(20) The provisions of this section shall be under the supervision of the Commissioner of Public Safety. The commissioner is authorized to promulgate reasonable rules and regulations to carry out the provisions of this section.

(21) For the purposes of this section, the term "stun gun" means a portable device or weapon from which an electric current, impulse, wave or beam may be directed, which current, impulse, wave or beam is designed to incapacitate temporarily, injure, momentarily stun, knock out, cause mental disorientation or paralyze.

SECTION 5. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

House Bill 20

Description: State funds; transfer sum from Motor Vehicle Ad Valorem Tax Reduction Fund to Budget Contingency Fund.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: Passage

Chapter Number: 301

History of Actions:

- | | | | |
|----|-------|-----|---------------------------------------|
| 1 | 01/10 | (H) | Referred To Appropriations |
| 2 | 01/10 | (H) | Title Suff Do Pass |
| 3 | 01/11 | (H) | Amended |
| 4 | 01/11 | (H) | Passed As Amended {Vote} |
| 5 | 01/11 | (H) | Immediate Release |
| 6 | 01/14 | (H) | Transmitted To Senate |
| 7 | 01/22 | (S) | Referred To Appropriations |
| 8 | 01/22 | (S) | Title Suff Do Pass As Amended |
| 9 | 01/23 | (S) | Amended |
| 10 | 01/23 | (S) | Passed As Amended {Vote} |
| 11 | 01/23 | (S) | Immediate Release |
| 12 | 01/23 | (S) | Returned For Concurrence |
| 13 | 01/30 | (H) | Concurred in Amend From Senate {Vote} |
| 14 | 02/05 | (H) | Enrolled Bill Signed |
| 15 | 02/05 | (S) | Enrolled Bill Signed |
| 16 | 02/12 | | Approved by Governor |

Amendments:

[H] Amendment No 1 *Adopted* Voice Vote

[S] Committee Amendment No 1 *Adopted* Voice Vote

Amendment Report for House Bill No. 20

----- Additional Information -----

House Committee: Appropriations

Senate Committee: Appropriations

2013 GENERAL LAWS OF MISSISSIPPI HB 20

Principal Author: Frierson

Title: AN ACT TO DIRECT THE STATE FISCAL OFFICER TO TRANSFER A CERTAIN SUM FROM THE MOTOR VEHICLE AD VALOREM TAX REDUCTION FUND TO THE BUDGET CONTINGENCY FUND; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI B

MISSISSIPPI LEGISLATURE

To: Appropriations 2013 REGULAR SESSION

To: Appropriations

By: Representative Frierson

HOUSE BILL NO. 20

(As Sent to Governor)

AN ACT TO DIRECT THE STATE FISCAL OFFICER TO TRANSFER A CERTAIN SUM FROM THE MOTOR VEHICLE AD VALOREM TAX REDUCTION FUND TO THE BUDGET CONTINGENCY FUND; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. During fiscal year 2013, the State Fiscal Officer shall transfer the sum of Fifty-two Million Dollars (\$52,000,000.00) from the Motor Vehicle Ad Valorem Tax Reduction Fund created in Section 27-51-105 (Fund No. 3769) to the Budget Contingency Fund.

SECTION 2. This act shall take effect and be in force from and after its passage.

Mississippi Legislature

2013 Regular Session

House Bill 64

Description: Fall dairy show; relocate from Marion County to Lamar County.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: Passage

Chapter Number: 349

History of Actions:

- | | | | |
|----|-------|-----|-------------------------------|
| 1 | 01/11 | (H) | Referred To Agriculture |
| 2 | 01/29 | (H) | Title Suff Do Pass |
| 3 | 01/31 | (H) | Passed {Vote} |
| 4 | 02/01 | (H) | Transmitted To Senate |
| 5 | 02/15 | (S) | Referred To Agriculture |
| 6 | 02/25 | (S) | Title Suff Do Pass As Amended |
| 7 | 03/07 | (S) | Amendment Failed |
| 8 | 03/07 | (S) | Passed {Vote} |
| 9 | 03/08 | (S) | Transmitted To House |
| 10 | 03/12 | (S) | Enrolled Bill Signed |
| 11 | 03/12 | (H) | Enrolled Bill Signed |
| 12 | 03/18 | | Approved by Governor |

Amendments:

[S] Committee Amendment No 1Lost Voice Vote

Code Section: A 069-0005-0107

----- Additional Information -----

House Committee: Agriculture

Senate Committee: Agriculture

Principal Author: Pigott

Title: AN ACT TO AMEND SECTION 69-5-107, MISSISSIPPI CODE OF 1972, TO RELOCATE THE STATE FALL DAIRY SHOW HELD IN COLUMBIA, MARION

2013 GENERAL LAWS OF MISSISSIPPI HB 64

COUNTY, MISSISSIPPI, TO PURVIS, LAMAR COUNTY, MISSISSIPPI; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI HB 64

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Agriculture

By: Representative Pigott

House Bill 64

(As Sent to Governor)

AN ACT TO AMEND SECTION 69-5-107, MISSISSIPPI CODE OF 1972, TO RELOCATE THE STATE FALL DAIRY SHOW HELD IN COLUMBIA, MARION COUNTY, MISSISSIPPI, TO PURVIS, LAMAR COUNTY, MISSISSIPPI; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 69-5-107, Mississippi Code of 1972, is amended as follows:

69-5-107. Dairy shows shall be held, in addition to the livestock shows, each fall at Verona in Lee County, at Newton in Newton County, Tylertown in Walthall County, and at* *
* Purvis in Lamar County, and each summer at the Neshoba County Fair in Neshoba County, and any person in the state is entitled to participate in any of the dairy shows. The dairy shows shall be supervised and handled in the same manner as provided for livestock shows in Section 69-5-105, and each of the five (5) dairy shows herein provided for shall receive such part of the monies appropriated for the Mississippi Livestock Show as shall be specified in the act making such appropriation.

SECTION 2. This act shall take effect and be in force from and after its passage.

Mississippi Legislature

2013 Regular Session

House Bill 80

Description: Municipal courts; revise amount allowed to charge convicted misdemeanor offenders for jail costs.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Three/Fifths

Effective date: July 1, 2013

Chapter Number: 358

History of Actions:

- | | | | |
|----|-------|-----|-----------------------------------|
| 1 | 01/11 | (H) | Referred To Judiciary B |
| 2 | 01/31 | (H) | Title Suff Do Pass |
| 3 | 02/13 | (H) | Passed {Vote} |
| 4 | 02/14 | (H) | Transmitted To Senate |
| 5 | 02/15 | (S) | Referred To Judiciary, Division A |
| 6 | 02/28 | (S) | Title Suff Do Pass |
| 7 | 03/07 | (S) | Passed {Vote} |
| 8 | 03/08 | (S) | Transmitted To House |
| 9 | 03/12 | (S) | Enrolled Bill Signed |
| 10 | 03/12 | (H) | Enrolled Bill Signed |
| 11 | 03/18 | | Approved by Governor |

Code Section: A 021-0023-0007

----- Additional Information -----

House Committee: Judiciary B

Senate Committee: Judiciary, Division A

Principal Author: Baker

Title: AN ACT TO AMEND SECTION 21-23-7, MISSISSIPPI CODE OF 1972, TO REVISE THE AMOUNT MUNICIPALITIES ARE ALLOWED TO CHARGE CONVICTED MISDEMEANOR OFFENDERS FOR JAIL COSTS; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI HB 80

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Judiciary B

By: Representative Baker

House Bill 80

(As Sent to Governor)

AN ACT TO AMEND SECTION 21-23-7, MISSISSIPPI CODE OF 1972, TO REVISE THE AMOUNT MUNICIPALITIES ARE ALLOWED TO CHARGE CONVICTED MISDEMEANOR OFFENDERS FOR JAIL COSTS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 21-23-7, Mississippi Code of 1972, is amended as follows:

21-23-7. (1) The municipal judge shall hold court in a public building designated by the governing authorities of the municipality and may hold court every day except Sundays and legal holidays if the business of the municipality so requires; provided, however, the municipal judge may hold court outside the boundaries of the municipality but not more than within a sixty-mile radius of the municipality to handle preliminary matters and criminal matters such as initial appearances and felony preliminary hearings. The municipal judge shall have the jurisdiction to hear and determine, without a jury and without a record of the testimony, all cases charging violations of the municipal ordinances and state misdemeanor laws made offenses against the municipality and to punish offenders therefor as may be prescribed by law. Except as otherwise provided by law, criminal proceedings shall be brought by sworn complaint filed in the municipal court. Such complaint shall state the essential elements of the offense charged and the statute or ordinance relied upon. Such complaint shall not be required to conclude with a general averment that the offense is against the peace and dignity of the state or in violation of the ordinances of the municipality. He may sit as a committing court in all felonies committed within the municipality, and he shall have the power to bind over the accused to the grand jury or to appear before the proper court having jurisdiction to try the same, and to set the amount of bail or refuse bail and commit the accused to jail in cases not bailable. The municipal judge

is a conservator of the peace within his municipality. He may conduct preliminary hearings in all violations of the criminal laws of this state occurring within the municipality, and any person arrested for a violation of law within the municipality may be brought before him for initial appearance. The municipal court shall have jurisdiction of any case remanded to it by a circuit court grand jury. The municipal court shall have civil jurisdiction over actions filed pursuant to and as provided in Title 93, Chapter 21, Mississippi Code of 1972, the Protection from Domestic Abuse Act.

(2) In the discretion of the court, where the objects of justice would be more likely met, as an alternative to imposition or payment of fine and/or incarceration, the municipal judge shall have the power to sentence convicted offenders to work on a public service project where the court has established such a program of public service by written guidelines filed with the clerk for public record. Such programs shall provide for reasonable supervision of the offender and the work shall be commensurate with the fine and/or incarceration that would have ordinarily been imposed. Such program of public service may be utilized in the implementation of the provisions of Section 99-19-20, and public service work thereunder may be supervised by persons other than the sheriff.

(3) The municipal judge may solemnize marriages, take oaths, affidavits and acknowledgments, and issue orders, subpoenas, summonses, citations, warrants for search and arrest upon a finding of probable cause, and other such process under seal of the court to any county or municipality, in a criminal case, to be executed by the lawful authority of the county or the municipality of the respondent, and enforce obedience thereto. The absence of a seal shall not invalidate the process.

(4) When a person shall be charged with an offense in municipal court punishable by confinement, the municipal judge, being satisfied that such person is an indigent person and is unable to employ counsel, may, in the discretion of the court, appoint counsel from the membership of The Mississippi Bar residing in his county who shall represent him. Compensation for appointed counsel in criminal cases shall be approved and allowed by the municipal judge and shall be paid by the municipality. The maximum compensation shall not exceed Two Hundred Dollars (\$200.00) for any one (1) case. The governing

authorities of a municipality may, in their discretion, appoint a public defender(s) who must be a licensed attorney and who shall receive a salary to be fixed by the governing authorities.

(5) The municipal judge of any municipality is hereby authorized to suspend the sentence and to suspend the execution of the sentence, or any part thereof, on such terms as may be imposed by the municipal judge. However, the suspension of imposition or execution of a sentence hereunder may not be revoked after a period of two (2) years. The municipal judge shall have the power to establish and operate a probation program, dispute resolution program and other practices or procedures appropriate to the judiciary and designed to aid in the administration of justice. Any such program shall be established by the court with written policies and procedures filed with the clerk of the court for public record. Subsequent to original sentencing, the municipal judge, in misdemeanor cases, is hereby authorized to suspend sentence and to suspend the execution of a sentence, or any part thereof, on such terms as may be imposed by the municipal judge, if (a) the judge or his or her predecessor was authorized to order such suspension when the sentence was originally imposed; and (b) such conviction (i) has not been appealed; or (ii) has been appealed and the appeal has been voluntarily dismissed.

(6) Upon prior notice to the municipal prosecuting attorney and upon a showing in open court of rehabilitation, good conduct for a period of two (2) years since the last conviction in any court and that the best interest of society would be served, the court may, in its discretion, order the record of conviction of a person of any or all misdemeanors in that court expunged, and upon so doing the said person thereafter legally stands as though he had never been convicted of the said misdemeanor(s) and may lawfully so respond to any query of prior convictions. This order of expunction does not apply to the confidential records of law enforcement agencies and has no effect on the driving record of a person maintained under Title 63, Mississippi Code of 1972, or any other provision of said Title 63.

(7) Notwithstanding the provisions of subsection (6) of this section, a person who was convicted in municipal court of a misdemeanor before reaching his twenty-third birthday, excluding conviction for a traffic violation, and who is a

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first offender, may utilize the provisions of Section 99-19-71, to expunge such misdemeanor conviction.

(8) In the discretion of the court, a plea of nolo contendere may be entered to any charge in municipal court. Upon the entry of a plea of nolo contendere the court shall convict the defendant of the offense charged and shall proceed to sentence the defendant according to law. The judgment of the court shall reflect that the conviction was on a plea of nolo contendere. An appeal may be made from a conviction on a plea of nolo contendere as in other cases.

(9) Upon execution of a sworn complaint charging a misdemeanor, the municipal court may, in its discretion and in lieu of an arrest warrant, issue a citation requiring the appearance of the defendant to answer the charge made against him. On default of appearance, an arrest warrant may be issued for the defendant. The clerk of the court or deputy clerk may issue such citations.

(10) The municipal court shall have the power to make rules for the administration of the court's business, which rules, if any, shall be in writing filed with the clerk of the court and shall include the enactment of rules related to the court's authority to issue domestic abuse protection orders pursuant to Section 93-21-1 et seq.

(11) The municipal court shall have the power to impose punishment of a fine of not more than One Thousand Dollars (\$1,000.00) or six (6) months' imprisonment, or both, for contempt of court. The municipal court may have the power to impose reasonable costs of court, not in excess of the following:

Dismissal of any affidavit, complaint or charge in municipal court	\$ 50.00
Suspension of a minor's driver's license in lieu of conviction	\$ 50.00
Service of scire facias or return "not found"...	\$ 20.00
Causing search warrant to issue or causing prosecution without reasonable cause or refusing to cooperate after initiating action	\$ 100.00
Certified copy of the court record.....	\$ 5.00

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Service of arrest warrant for failure to answer citation or traffic summons	\$ 25.00
Jail cost per day.....	* * *
<u>actual jail cost paid by the municipality but not to exceed.....</u>	\$ 35.00
Service of court documents related to the filing of a petition or issuance of a protection from domestic abuse order under Title 93, Chapter 21, Mississippi Code of 1972	\$ 25.00
Any other item of court cost.....	\$ 50.00

No filing fee or such cost shall be imposed for the bringing of an action in municipal court.

(12) A municipal court judge shall not dismiss a criminal case but may transfer the case to the justice court of the county if the municipal court judge is prohibited from presiding over the case by the Canons of Judicial Conduct and provided that venue and jurisdiction are proper in the justice court. Upon transfer of any such case, the municipal court judge shall give the municipal court clerk a written order to transmit the affidavit or complaint and all other records and evidence in the court's possession to the justice court by certified mail or to instruct the arresting officer to deliver such documents and records to the justice court. There shall be no court costs charged for the transfer of the case to the justice court.

(13) A municipal court judge shall expunge the record of any case in which an arrest was made, the person arrested was released and the case was dismissed or the charges were dropped or there was no disposition of such case.

SECTION 2. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

House Bill 85

Description: UCC; publish Ch. 9 on SOS website.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2013

Chapter Number: 368

History of Actions:

1	01/11	(H)	Referred To Judiciary A
2	01/29	(H)	Title Suff Do Pass
3	01/31	(H)	Passed {Vote}
4	01/31	(H)	Motion to Reconsider Entered (Eaton, Baker, Reynolds)
5	02/01	(H)	Transmitted To Senate
6	02/04	(H)	Recalled From Senate
7	02/05	(H)	Motion to Reconsider Tabled
8	02/05	(H)	Transmitted To Senate
9	02/15	(S)	Referred To Judiciary, Division A
10	02/21	(S)	Title Suff Do Pass
11	03/07	(S)	Passed {Vote}
12	03/08	(S)	Transmitted To House
13	03/12	(S)	Enrolled Bill Signed
14	03/12	(H)	Enrolled Bill Signed
15	03/18		Approved by Governor

Code Section: A 007-0003-0057

----- Additional Information -----

House Committee: Judiciary A

Senate Committee: Judiciary, Division A

Principal Author: Baker

Title: AN ACT TO AMEND SECTION 7-3-57, MISSISSIPPI CODE OF 1972, TO REQUIRE THE SECRETARY OF STATE TO PUBLISH CHAPTER 9 OF THE

UNIFORM COMMERCIAL CODE IN PRINTED FORM OR ON THE SECRETARY OF STATE'S WEBSITE; TO DELETE A REFERENCE TO A REPEALED CODE SECTION; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI HB 85

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Judiciary A

By: Representative Baker

House Bill 85

(As Sent to Governor)

AN ACT TO AMEND SECTION 7-3-57, MISSISSIPPI CODE OF 1972, TO REQUIRE THE SECRETARY OF STATE TO PUBLISH CHAPTER 9 OF THE UNIFORM COMMERCIAL CODE IN PRINTED FORM OR ON THE SECRETARY OF STATE'S WEBSITE; TO DELETE A REFERENCE TO A REPEALED CODE SECTION; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 7-3-57, Mississippi Code of 1972, is amended as follows:

7-3-57. The Secretary of State is hereby authorized and directed to prepare and make available to the public* * *, either in printed form or on the Secretary of State's website, the text, with an index, of Chapter 9* * *, Title 75, Mississippi Code of 1972, as amended. * * *

SECTION 2. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

House Bill 91

Description: Driver's license; provide fines from other state's electronic traffic cameras shall only be recognized if a Driver License Compact state.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: Passage

Chapter Number: 340

History of Actions:

- | | | | |
|----|-------|-----|-----------------------------------|
| 1 | 01/11 | (H) | Referred To Judiciary B |
| 2 | 01/17 | (H) | Title Suff Do Pass |
| 3 | 01/24 | (H) | Passed {Vote} |
| 4 | 01/25 | (H) | Transmitted To Senate |
| 5 | 01/25 | (S) | Referred To Judiciary, Division B |
| 6 | 03/05 | (S) | Title Suff Do Pass |
| 7 | 03/07 | (S) | Passed {Vote} |
| 8 | 03/08 | (S) | Transmitted To House |
| 9 | 03/12 | (S) | Enrolled Bill Signed |
| 10 | 03/12 | (H) | Enrolled Bill Signed |
| 11 | 03/14 | | Approved by Governor |

----- **Additional Information** -----

House Committee: Judiciary B

Senate Committee: Judiciary, Division B

Principal Author: Gipson

Additional Authors: Dixon

Title: AN ACT TO PROVIDE THAT THE MISSISSIPPI DEPARTMENT OF PUBLIC SAFETY SHALL NOT RECOGNIZE TRAFFIC FINES RESULTING FROM AUTOMATED RECORDING EQUIPMENT OR SYSTEM OF ANOTHER STATE UNLESS THAT STATE IS A MEMBER OF THE DRIVER LICENSE COMPACT; TO PROVIDE THAT THE DEPARTMENT SHALL NOT SUSPEND THE DRIVER'S LICENSE OF A PERSON WHO FAILS TO PAY SUCH FINE UNLESS THE STATE

THAT IS DUE THE FINE IS A MEMBER OF THE COMPACT; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI HB 91

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Judiciary B

By: Representatives Gipson, Dixon

House Bill 91

(As Sent to Governor)

AN ACT TO PROVIDE THAT THE MISSISSIPPI DEPARTMENT OF PUBLIC SAFETY SHALL NOT RECOGNIZE TRAFFIC FINES RESULTING FROM AUTOMATED RECORDING EQUIPMENT OR SYSTEM OF ANOTHER STATE UNLESS THAT STATE IS A MEMBER OF THE DRIVER LICENSE COMPACT; TO PROVIDE THAT THE DEPARTMENT SHALL NOT SUSPEND THE DRIVER'S LICENSE OF A PERSON WHO FAILS TO PAY SUCH FINE UNLESS THE STATE THAT IS DUE THE FINE IS A MEMBER OF THE COMPACT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. The Mississippi Department of Public Safety shall only recognize any civil or criminal fine, fee, citation or penalty for a violation of compliance with traffic signals, traffic speeds or other traffic laws, rules or regulations in another state that results from the use of automated recording equipment or system as defined under Section 17-25-19 if that state is a member of the Driver License Compact as provided under Section 63-1-103. Further, the Mississippi Department of Public Safety shall not suspend the driver's license of a person for failure to pay any civil or criminal fine, fee, citation or penalty for such a violation unless the state that is due the fine, fee, citation or penalty is a member of the Driver License Compact.

SECTION 2. This act shall take effect and be in force from and after its passage.

Mississippi Legislature

2013 Regular Session

House Bill 129

Description: State Port Authority; extend repealer on authority to use design-build method of contracting.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2013

Chapter Number: 347

History of Actions:

- | | | | |
|----|-------|-----|---|
| 1 | 01/11 | (H) | Referred To Ports, Harbors and Airports |
| 2 | 01/31 | (H) | Title Suff Do Pass |
| 3 | 02/07 | (H) | Point of Order Raised |
| 4 | 02/07 | (H) | Set Aside-Pend Ruling of Chair |
| 5 | 02/07 | (H) | Amendment Ruled Improper |
| 6 | 02/07 | (H) | Passed {Vote} |
| 7 | 02/08 | (H) | Transmitted To Senate |
| 8 | 02/19 | (S) | Referred To Ports and Marine Resources |
| 9 | 03/04 | (S) | Title Suff Do Pass |
| 10 | 03/07 | (S) | Passed {Vote} |
| 11 | 03/08 | (S) | Transmitted To House |
| 12 | 03/12 | (S) | Enrolled Bill Signed |
| 13 | 03/12 | (H) | Enrolled Bill Signed |
| 14 | 03/18 | | Approved by Governor |

Amendments:

[H] Amendment No 1Improper

Code Section: A 059-0005-0037

----- Additional Information -----

House Committee: Ports, Harbors and Airports

Senate Committee: Ports and Marine Resources

Principal Author: Formby

Title: AN ACT TO AMEND SECTION 59-5-37, MISSISSIPPI CODE OF 1972, WHICH AUTHORIZES THE STATE PORT AUTHORITY AT GULFPORT TO USE THE DESIGN-BUILD METHOD OF CONTRACTING FOR CERTAIN PURPOSES; TO EXTEND THE DATE OF REPEAL ON THIS SECTION FROM JULY 1, 2013, TO JULY 1, 2016; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI HB 129

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Ports, Harbors and Airports

By: Representative Formby

House Bill 129

(As Sent to Governor)

AN ACT TO AMEND SECTION 59-5-37, MISSISSIPPI CODE OF 1972, WHICH AUTHORIZES THE STATE PORT AUTHORITY AT GULFPORT TO USE THE DESIGN-BUILD METHOD OF CONTRACTING FOR CERTAIN PURPOSES; TO EXTEND THE DATE OF REPEAL ON THIS SECTION FROM JULY 1, 2013, TO JULY 1, 2016; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 59-5-37, Mississippi Code of 1972, is amended as follows:

59-5-37. (1) The board or State Port Authority, in the performance of its duties, may employ such personnel and make all contracts and purchases incidental to or necessary for the advancement, promotion, development, establishment, insurance, maintenance, repair, improvement and operation of any ports, harbors, rivers, channels and waterways including, if required for its protection, retirement benefits, workers' compensation insurance and other employee benefits for the benefit of any employees of the board or State Port Authority. The board or State Port Authority may establish a trade development and promotion account to pay all direct and necessary expenses for the promotion and development of the state port. The authority is granted the power to sue and be sued in its own name.

(2) (a) The board or State Port Authority may, in its discretion, make such contracts or purchases according to the state purchasing laws. Contracts let for any port, harbor, river, channel or waterway improvements shall be advertised as required by law for the letting of public contracts, and such contracts shall be awarded to the lowest and best bidder who shall make bond as shall be required by the board or State Port Authority conditioned for the faithful prosecution and completion of work according to such contracts, such bond to be furnished by a corporate surety company qualified to do business in this state. However, the board may negotiate and enter into contracts with responsible lessees for the

construction of facilities by lessées, such as those referred to in Section 59-5-11, and the acquisition thereof by the board upon such terms and conditions and for such amount as may be approved by the board.

(b) The State Port Authority shall be considered to be a "governing authority" under the state public purchasing laws as that term is defined in Section 31-7-1 and used in Sections 31-7-1 through 31-7-73, and shall not be subject to the jurisdiction of the Department of Finance and Administration, the Public Procurement Review Board or the Bureau of Building, Grounds and Real Property Management under the provisions of Sections 27-104-7, 29-5-2 and 31-11-3.

(3) (a) The board or State Port Authority, in its discretion, may use the design-build method of contracting for the renovation, repair and/or making of other improvements to not more than one (1) freezer and related equipment and/or facilities at the State Port at Gulfport, Mississippi. For the purposes of this subsection (3), the term "design-build method of contracting" means a contract that combines the design and construction phases of a project into a single contract and the contractor is required to satisfactorily perform, at a minimum, both the design and construction of the project.

(b) This subsection (3) shall stand repealed from and after July 1, * * * 2016.

SECTION 2. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

House Bill 142

Description: County courts; revise jurisdiction.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: VRA

Chapter Number: 361

History of Actions:

- | | | | |
|----|-------|-----|-----------------------------------|
| 1 | 01/11 | (H) | Referred To Judiciary A |
| 2 | 01/29 | (H) | Title Suff Do Pass Comm Sub |
| 3 | 01/30 | (H) | Committee Substitute Adopted |
| 4 | 01/30 | (H) | Passed {Vote} |
| 5 | 02/01 | (H) | Transmitted To Senate |
| 6 | 02/15 | (S) | Referred To Judiciary, Division A |
| 7 | 03/05 | (S) | Title Suff Do Pass |
| 8 | 03/07 | (S) | Passed {Vote} |
| 9 | 03/08 | (S) | Transmitted To House |
| 10 | 03/12 | (S) | Enrolled Bill Signed |
| 11 | 03/12 | (H) | Enrolled Bill Signed |
| 12 | 03/18 | | Approved by Governor |

Code Section: A 009-0009-0021, A 009-0007-0003, A 009-0009-0035

----- Additional Information -----

House Committee: Judiciary A

Senate Committee: Judiciary, Division A

Principal Author: Baker

Title: AN ACT TO AMEND SECTION 9-9-21, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT COUNTY COURT SHALL HAVE JURISDICTION OVER CRIMINAL MATTERS ASSIGNED TO IT BY A JUDGE OF THE CIRCUIT COURT; TO AMEND SECTIONS 9-7-3 AND 9-9-35, MISSISSIPPI CODE OF 1972, IN CONFORMITY; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI HB 142

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Judiciary A

By: Representative Baker

House Bill 142

(As Sent to Governor)

AN ACT TO AMEND SECTION 9-9-21, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT COUNTY COURT SHALL HAVE JURISDICTION OVER CRIMINAL MATTERS ASSIGNED TO IT BY A JUDGE OF THE CIRCUIT COURT; TO AMEND SECTIONS 9-7-3 AND 9-9-35, MISSISSIPPI CODE OF 1972, IN CONFORMITY; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 9-9-21, Mississippi Code of 1972, is amended as follows:

9-9-21. (1) The jurisdiction of the county court shall be as follows: It shall have jurisdiction concurrent with the justice court in all matters, civil and criminal of which the justice court has jurisdiction; and it shall have jurisdiction concurrent with the circuit and chancery courts in all matters of law and equity wherein the amount of value of the thing in controversy shall not exceed, exclusive of costs and interest, the sum of Two Hundred Thousand Dollars (\$200,000.00), and the jurisdiction of the county court shall not be affected by any setoff, counterclaim or cross-bill in such actions where the amount sought to be recovered in such setoff, counterclaim or cross-bill exceeds Two Hundred Thousand Dollars (\$200,000.00). Provided, however, the party filing such setoff, counterclaim or cross-bill which exceeds Two Hundred Thousand Dollars (\$200,000.00) shall give notice to the opposite party or parties as provided in Section 13-3-83, and on motion of all parties filed within twenty (20) days after the filing of such setoff, counterclaim or cross-bill, the county court shall transfer the case to the circuit or chancery court wherein the county court is situated and which would otherwise have jurisdiction. It shall have exclusively the jurisdiction heretofore exercised by the justice court in the following matters and causes: namely, eminent domain, the partition of personal property, and actions of unlawful entry and detainer, provided that the actions of eminent domain and unlawful entry and detainer may be returnable and triable

before the judge of said court in vacation. The county court shall have jurisdiction over criminal matters in the county assigned by a judge of the circuit court district in which the county is included.

(2) In the event of the establishment of a county court by an agreement between two (2) or more counties as provided in Section 9-9-3, it shall be lawful for such court sitting in one (1) county to act upon any and all matters of which it has jurisdiction as provided by law arising in the other county under the jurisdiction of said court.

SECTION 2. Section 9-7-3, Mississippi Code of 1972, is amended as follows:

9-7-3. (1) The state is divided into an appropriate number of circuit court districts severally numbered and comprised of the counties as set forth in the sections which follow. A court to be styled "The Circuit Court of the County of ____" shall be held in each county, and within each judicial district of a county having two (2) judicial districts, at least twice a year. From and after January 1, 1995, the dates upon which court shall be held in circuit court districts consisting of a single county shall be the same dates state agencies and political subdivisions are open for business excluding legal holidays. The dates upon which terms shall commence and the number of days for which such terms shall continue in circuit court districts consisting of more than one (1) county shall be set by order of the circuit court judge in accordance with the provisions of subsection (2) of this section. A matter in court may extend past such times if the interest of justice so requires.

(2) An order establishing the commencement and continuation of terms of court for each of the counties within a circuit court district consisting of more than one (1) county shall be entered annually and not later than October 1 of the year immediately preceding the calendar year for which such terms of court are to become effective. Notice of the dates upon which the terms of court shall commence and the number of days for which such terms shall continue in each of the counties within a circuit court district shall be posted in the office of the circuit clerk of each county within the district and mailed to the office of the Secretary of State for publication and distribution to all members of The Mississippi Bar. In the event that an order is not timely entered as herein provided,

2013 GENERAL LAWS OF MISSISSIPPI HB 142

the terms of court for each of the counties within any such circuit court district shall remain unchanged for the next calendar year. A certified copy of any order entered under the provisions of this subsection shall, immediately upon the entry thereof, be delivered to the clerk of the board of supervisors in each of the counties within the circuit court district.

(3) The number of judges in each circuit court district shall be determined by the Legislature based upon the following criteria:

- (a) The population of the district;
- (b) The number of cases filed in the district;
- (c) The case load of each judge in the district;
- (d) The geographic area of the district;
- (e) An analysis of the needs of the district by the court personnel of the district; and
- (f) Any other appropriate criteria.

(4) The Judicial College of the University of Mississippi Law Center and the Administrative Office of Courts shall determine the appropriate:

- (a) Specific data to be collected as a basis for applying the above criteria;
- (b) Method of collecting and maintaining the specified data; and
- (c) Method of assimilating the specified data.

(5) In a district having more than one (1) office of circuit judge, there shall be no distinction whatsoever in the powers, duties and emoluments of those offices except that the judge who has been for the longest time continuously a judge of that court or, should no judge have served longer in office than the others, the judge who has been for the longest time a member of The Mississippi Bar, shall be the senior judge. The senior judge shall have the right to assign causes and dockets and to set terms in districts consisting of more than one (1) county. A circuit court judge shall have the right to assign criminal matters to county court as provided in Section 9-9-21.

SECTION 3. Section 9-9-35, Mississippi Code of 1972, is amended as follows:

9-9-35. In any county in cases where an overcrowded docket justifies the same, any circuit judge may assign to a county judge in said county only, for hearing and final disposition, any case, cause, hearing or motion, or any proceedings involved in the trial and final disposition thereof.

All orders in said cause, trial or hearing may be signed as follows: "_____ County Judge and Acting Circuit Judge by assignment." No special order evidencing said assignment shall be entered on the minutes, except in cases where a county judge is assigned the duty of opening and organizing a court where a grand jury is to be impaneled, in which case an order so assigning the said county judge to act shall be signed and entered on the minutes of the court on the opening day thereof.

No compensation for said services shall be allowed said county judge, neither shall said county judge be compelled to accept any assignment except at his will. * * *

SECTION 4. The Attorney General of the State of Mississippi shall submit this act, immediately upon approval by the Governor, or upon approval by the Legislature subsequent to a veto, to the Attorney General of the United States or to the United States District Court for the District of Columbia in accordance with the provisions of the Voting Rights Act of 1965, as amended and extended.

SECTION 5. This act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended.

Mississippi Legislature

2013 Regular Session

House Bill 181

Description: MS Highway 29; designate segment in City of Ellisville as “Wyonie ‘Sonny’ Patterson” Memorial Highway.”

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2013

Chapter Number: 375

History of Actions:

- | | | | |
|----|-------|-----|---|
| 1 | 01/14 | (H) | Referred To Transportation |
| 2 | 01/31 | (H) | Title Suff Do Pass |
| 3 | 02/07 | (H) | Passed {Vote} |
| 4 | 02/08 | (H) | Transmitted To Senate |
| 5 | 02/12 | (S) | Referred To Highways and Transportation |
| 6 | 02/26 | (S) | Title Suff Do Pass |
| 7 | 03/07 | (S) | Passed {Vote} |
| 8 | 03/08 | (S) | Transmitted To House |
| 9 | 03/12 | (H) | Enrolled Bill Signed |
| 10 | 03/12 | (S) | Enrolled Bill Signed |
| 11 | 03/20 | | Approved by Governor |

----- Additional Information -----

House Committee: Transportation

Senate Committee: Highways and Transportation

Principal Author: Shows

Title: AN ACT TO DESIGNATE A CERTAIN SEGMENT OF MISSISSIPPI HIGHWAY 29 IN THE CITY OF ELLISVILLE AS THE “WYONIE ‘SONNY’ PATTERSON MEMORIAL HIGHWAY”; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI HB 181

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Transportation

By: Representative Shows

House Bill 181
(As Sent to Governor)

AN ACT TO DESIGNATE A CERTAIN SEGMENT OF MISSISSIPPI HIGHWAY 29 IN THE CITY OF ELLISVILLE AS THE "WYONIE 'SONNY' PATTERSON MEMORIAL HIGHWAY"; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. (1) That segment of Mississippi Highway 29 (Holly Street) beginning at the intersection with U.S. Highway 11 and extending southeasterly to the intersection with Church Street is designated and shall be known as the "Wyonie 'Sonny' Patterson Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SECTION 2. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

House Bill 225

Description: "MS Hwy. Patrol Fallen Officer's Memorial Highway Act; " enact to designate certain public roadways in honor of.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2013

Chapter Number: 342

History of Actions:

- | | | | |
|----|-------|-----|---|
| 1 | 01/14 | (H) | Referred To Transportation |
| 2 | 01/22 | (H) | Title Suff Do Pass |
| 3 | 01/22 | (H) | Passed {Vote} |
| 4 | 01/24 | (H) | Transmitted To Senate |
| 5 | 01/24 | (S) | Referred To Highways and Transportation |
| 6 | 02/26 | (S) | Title Suff Do Pass |
| 7 | 03/07 | (S) | Passed {Vote} |
| 8 | 03/08 | (S) | Transmitted To House |
| 9 | 03/12 | (S) | Enrolled Bill Signed |
| 10 | 03/12 | (H) | Enrolled Bill Signed |
| 11 | 03/14 | | Approved by Governor |

Code Section: A 065-0003-0038.1

----- Additional Information -----

House Committee: Transportation

Senate Committee: Highways and Transportation

Principal Author: Flaggs

Additional Authors: Banks

Title: AN ACT TO CREATE THE "MISSISSIPPI HIGHWAY PATROL FALLEN OFFICER'S MEMORIAL HIGHWAY ACT"; TO AUTHORIZE THE MISSISSIPPI HIGHWAY SAFETY PATROL WITHIN THE DEPARTMENT OF PUBLIC SAFETY, IN CONJUNCTION WITH THE MISSISSIPPI DEPARTMENT OF TRANSPORTATION TO DESIGNATE ANY SEGMENT OF ANY PUBLIC STREET, ROAD, HIGHWAY

OR INTERSTATE WITHIN THE STATE UPON WHICH ANY MEMBER OF THE MISSISSIPPI HIGHWAY SAFETY PATROL HAS FALLEN IN THE LINE OF DUTY AS A MEMORIAL ROADWAY; TO LIMIT THE MILEAGE OF THE SEGMENT OF ROADWAY TO BE SO DESIGNATED; TO REQUIRE THE MEMORIAL SIGNAGE TO INCLUDE A DISTINCTIVE MARKER DESIGNED BY THE DEPARTMENT OF PUBLIC SAFETY; TO PROVIDE FOR THE FUNDING OF THE DISTINCTIVE MARKERS TO BE PLACED ON THE SIGNAGE; TO PROVIDE THAT ALL OFFICERS OF THE MISSISSIPPI HIGHWAY SAFETY PATROL WHO HAVE FALLEN SINCE JANUARY 1, 1938 SHALL BE ELIGIBLE FOR SUCH MEMORIAL ROADWAY DESIGNATION; TO AMEND SECTION 65-3-38.1, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PRECEDING PROVISIONS; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI HB 225

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Transportation

By: Representatives Flaggs, Banks

House Bill 225

(As Sent to Governor)

AN ACT TO CREATE THE "Mississippi Highway Patrol Fallen Officer's Memorial Highway Act"; TO AUTHORIZE THE Mississippi Highway Safety Patrol within the Department of Public Safety, in conjunction with the Mississippi Department of Transportation to designate any segment of any public street, road, highway or interstate within the state upon which any member of the Mississippi Highway Safety Patrol has fallen in the line of duty as a memorial roadway; TO LIMIT THE MILEAGE OF THE SEGMENT OF ROADWAY TO BE SO DESIGNATED; TO REQUIRE THE MEMORIAL SIGNAGE TO INCLUDE A DISTINCTIVE MARKER DESIGNED BY THE DEPARTMENT OF PUBLIC SAFETY; TO PROVIDE FOR THE FUNDING OF THE DISTINCTIVE MARKERS TO BE PLACED ON THE SIGNAGE; TO PROVIDE THAT ALL OFFICERS OF THE MISSISSIPPI HIGHWAY SAFETY PATROL WHO HAVE FALLEN SINCE JANUARY 1, 1938 SHALL BE ELIGIBLE FOR SUCH MEMORIAL ROADWAY DESIGNATION; TO AMEND SECTION 65-3-38.1, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PRECEDING PROVISIONS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. This act shall be known and may be cited as the "Mississippi Highway Patrol Fallen Officer's Memorial Highway Act."

SECTION 2. (1) The Mississippi Highway Safety Patrol within the Department of Public Safety, in conjunction with the Mississippi Department of Transportation, is authorized to designate any segment of any public street, road, highway or interstate within the state upon which any member of the Mississippi Highway Safety Patrol has fallen in the line of duty as a memorial roadway in such officer's honor, provided that such memorial roadway shall not extend more than five (5) miles in each southern and northern or eastern and western direction of the location in which the fallen member of the Mississippi Highway Safety Patrol fell.

(2) The Department of Public Safety shall notify the Mississippi Department of Transportation of the site of such

officer who was killed in the performance of his or her official duties, and the Mississippi Department of Transportation shall erect and maintain appropriate signs with a distinctive marker along and approaching the segment of roadway denoting the site of the fallen officer's death. The distinctive marker shall be designed by the Department of Public Safety with the advice and recommendation of the Mississippi State Troopers' Association.

(3) The funding for the distinctive markers shall be made from any funds appropriated by the Legislature to the Department of Public Safety or from any gifts, grants or donations received by the Department of Public Safety for the purpose of providing the distinctive markers.

(4) This section shall apply to all Mississippi Highway Safety Patrol officers who have given their lives in the performance of their official duties after July 1, 1938.

SECTION 3. Section 65-3-38.1, Mississippi Code of 1972, is amended as follows:

65-3-38.1. (1) No highway, road, street or bridge on the designated state highway system may be named after any person elected by the people to any public office in this state during the term of such person's office or for a period of ten (10) years after such person no longer served in any such office.

(2) No legislation shall be enacted by the Legislature naming any highway, road, street or bridge on the designated state highway system after any person unless the governing body of each county and municipality where the highway, road, street or bridge is located duly adopts a resolution requesting the Legislature to enact such legislation and files a certified copy of such resolution with the Chairman of the Senate or House Committee to which such legislation is referred.

(3) The provisions of this section shall not apply to Sections 1 and 2 of this act.

SECTION 4. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

House Bill 275

Description: Municipal, county and state executive committees; prohibit those who violate the public trust from serving on.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: VRA

Chapter Number: 391

History of Actions:

- 1 01/14 (H) Referred To Apportionment and Elections
- 2 02/05 (H) Title Suff Do Pass
- 3 02/13 (H) Read the Third Time
- 4 02/14 (H) Passed {Vote}
- 5 02/15 (H) Transmitted To Senate
- 6 02/19 (S) Referred To Elections; Accountability,

Efficiency, Transparency

- 7 02/28 (S) DR - TSDPAA: EL To AC
- 8 03/05 (S) Title Suff Do Pass As Amended
- 9 03/07 (S) Amended
- 10 03/07 (S) Passed As Amended {Vote}
- 11 03/08 (S) Returned For Concurrence
- 12 03/11 (H) Concurred in Amend From Senate {Vote}
- 13 03/14 (H) Enrolled Bill Signed
- 14 03/14 (S) Enrolled Bill Signed
- 15 03/20 Approved by Governor

Amendments:

[S] Committee Amendment No 1 *Adopted* Voice Vote
Amendment Report for House Bill No. 275

Code Section: A 023-0015-0315

----- Additional Information -----

House Committee: Apportionment and Elections

Senate Committee: Elections, Accountability, Efficiency, Transparency

Principal Author: Martinson

Additional Authors: Boyd, Carpenter, Crawford, Monsour

Title: AN ACT TO PROHIBIT FROM SERVING ON ANY TEMPORARY MUNICIPAL EXECUTIVE COMMITTEE, MUNICIPAL EXECUTIVE COMMITTEE, TEMPORARY COUNTY EXECUTIVE COMMITTEE, COUNTY EXECUTIVE COMMITTEE OR STATE EXECUTIVE COMMITTEE, ANY PERSON WHO HAS BEEN CONVICTED OF A CRIMINAL VIOLATION OF THE MISSISSIPPI ELECTION CODE, WHO HAS BEEN CONVICTED OF AN ELECTION CRIME CONTAINED IN CHAPTER 13, TITLE 97, MISSISSIPPI CODE OF 1972, WHO HAS BEEN REMOVED FROM OFFICE PURSUANT TO SECTION 25-5-1, MISSISSIPPI CODE OF 1972, OR WHO HAS RESIGNED FROM OFFICE AS A PART OF A PLEA AGREEMENT; TO AMEND SECTION 23-15-315, MISSISSIPPI CODE OF 1972, TO CLARIFY THE PROVISIONS THAT REQUIRE THE CHAIRMAN OF THE COUNTY EXECUTIVE COMMITTEE TO PUBLISH NOTICE OF HIS CALL FOR A MEETING OF THE COUNTY EXECUTIVE COMMITTEE; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI HB 275

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Apportionment and Elections

By: Representatives Martinson, Boyd, Carpenter, Crawford,
Monsour

House Bill 275

(As Sent to Governor)

AN ACT TO PROHIBIT FROM SERVING ON ANY TEMPORARY MUNICIPAL EXECUTIVE COMMITTEE, MUNICIPAL EXECUTIVE COMMITTEE, TEMPORARY COUNTY EXECUTIVE COMMITTEE, COUNTY EXECUTIVE COMMITTEE OR STATE EXECUTIVE COMMITTEE, ANY PERSON WHO HAS BEEN CONVICTED OF A CRIMINAL VIOLATION OF THE MISSISSIPPI ELECTION CODE, WHO HAS BEEN CONVICTED OF AN ELECTION CRIME CONTAINED IN CHAPTER 13, TITLE 97, MISSISSIPPI CODE OF 1972, WHO HAS BEEN REMOVED FROM OFFICE PURSUANT TO SECTION 25-5-1, MISSISSIPPI CODE OF 1972, OR WHO HAS RESIGNED FROM OFFICE AS A PART OF A PLEA AGREEMENT; TO AMEND SECTION 23-15-315, MISSISSIPPI CODE OF 1972, TO CLARIFY THE PROVISIONS THAT REQUIRE THE CHAIRMAN OF THE COUNTY EXECUTIVE COMMITTEE TO PUBLISH NOTICE OF HIS CALL FOR A MEETING OF THE COUNTY EXECUTIVE COMMITTEE; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. (1) No person shall serve on any temporary municipal executive committee, municipal executive committee, temporary county executive committee, county executive committee or state executive committee if the person has been convicted of a criminal violation of the Mississippi Election Code, has been convicted of an election crime contained in Chapter 13, Title 97, Mississippi Code of 1972, has been removed from public office pursuant to Section 25-5-1, or who has resigned from office as part of a plea agreement.

(2) Any person who violates this section shall be guilty of a misdemeanor and, upon conviction, shall be punished as provided in Section 99-19-31 and removed from the committee.

SECTION 2. Section 23-15-315, Mississippi Code of 1972, is amended as follows:

23-15-315. The county executive committee chairman shall publish a copy of his call for a meeting in some newspaper published at least once per week in the municipality affected

for three (3) weeks preceding the date set for the mass convention, or if there be no newspaper published in the municipality, then in some newspaper having general circulation in the municipality and by posting notices continuously in three (3) public places in the municipality, one (1) of which shall be city hall or be the regular location where the municipal governing authority meets to conduct business not less than three (3) weeks before the date for the mass convention.

SECTION 3. The Attorney General of the State of Mississippi shall submit this act, immediately upon approval by the Governor, or upon approval by the Legislature subsequent to a veto, to the Attorney General of the United States or to the United States District Court for the District of Columbia in accordance with the provisions of the Voting Rights Act of 1965, as amended and extended.

SECTION 4. This act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended.

Mississippi Legislature

2013 Regular Session

House Bill 279

Description: Jackson-Medgar Wiley Evers International Airport; provide venue for trials for offenses committed at.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2013

Chapter Number: 341

History of Actions:

- 1 01/14 (H) Referred To Judiciary A
- 2 01/29 (H) Title Suff Do Pass
- 3 01/31 (H) Passed {Vote}
- 4 02/01 (H) Motion to Reconsider Entered (Banks, Baker, Reynolds)
- 5 02/04 (H) Motion to Reconsider Tabled
- 6 02/04 (H) Transmitted To Senate
- 7 02/15 (S) Referred To Judiciary, Division B
- 8 02/27 (S) Title Suff Do Pass
- 9 03/07 (S) Passed {Vote}
- 10 03/08 (S) Transmitted To House
- 11 03/12 (S) Enrolled Bill Signed
- 12 03/12 (H) Enrolled Bill Signed
- 13 03/14 Approved by Governor

Code Section: A 061-0009-0003

----- Additional Information -----

House Committee: Judiciary A

Senate Committee: Judiciary, Division B

Principal Author: Baker

Title: AN ACT TO AMEND SECTION 61-9-3, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE VENUE FOR THE TRIALS FOR OFFENSES COMMITTED ON CERTAIN AIRPORT AUTHORITY PROPERTY; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI HB 279

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Judiciary A

By: Representative Baker

House Bill 279 (As Sent to Governor)

AN ACT TO AMEND SECTION 61-9-3, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE VENUE FOR THE TRIALS FOR OFFENSES COMMITTED ON CERTAIN AIRPORT AUTHORITY PROPERTY; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 61-9-3, Mississippi Code of 1972, is amended as follows:

61-9-3. Any ordinance to incorporate properties constituting an airport or air navigational facility into the corporate boundaries of a municipality shall include the following provisions and shall be effective as follows:

(1) * * * The ordinance shall accurately describe the metes and bounds of the property of the airport or air navigational facility to be incorporated; only such portions of property constituting the airport or air navigational facility as shall be owned by the municipality and properties in which easements have been acquired by it for streets, public utilities and public roads and used in connection therewith shall be subject to such incorporation.

(2) * * * The ordinance shall provide that it shall not become operative until publication thereof shall have been made once each week for three (3) consecutive weeks in a newspaper, or newspapers, published or having a general circulation in the county or counties where both the municipality and such airport or air navigational facility shall be located.

(3) Subject only to the provisions hereof, and irrespective of the geographic location of the airport or air navigational facility in a county or judicial district other than the county or judicial district within which the principal office of the municipality is located, any such ordinance shall become effective upon the effective date fixed therein. On and after such effective date and on or after March 10, 1976, all laws, municipal ordinances, and local options effective in the municipality as a result of municipal, judicial district

and county options exercised in the municipality, judicial district or the county within which the principal office of the municipality is located, and all other laws, orders, codes and resolutions of and applicable to the municipality availing or having availed itself of the provisions hereof as well as those of the board of supervisors of the county in which the principal office of the municipality is located, shall be applicable to such airport or air navigational facility; provided, however, that no permit for the sale of any alcoholic beverage as defined in Section 67-1-5,* * * except an on-premises retailer's permit as authorized by Section 67-1-51(c), shall be issued for use at such airport or air navigational facility. Venue for the trial of all offenses against such laws and ordinances shall be in the county in which the* * * airport or air navigational facility is located.

(4) Nothing in this section shall be construed to restrict the county wherein the airport or air navigational facility is geographically located from levying and collecting state, county and school district ad valorem taxes on taxable properties situated thereat; and nothing in this section shall operate to impair or restrict the detachment of territory from a municipal separate school district and the annexation thereof to a county school district under Section 37-7-609* * * whether occurring prior to or subsequent to March 10, 1976.

(5) Provided, however, that this chapter shall apply only to municipalities having a population of one hundred thousand (100,000) or more.

SECTION 2. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

House Bill 373

Description: MTC; revise paid educational leave program to a stipend program for students agreeing to work as civil engineer for.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2013

Chapter Number: 402

History of Actions:

1	01/21	(H)	Referred To Transportation; Appropriations
2	01/29	(H)	DR - TSDP: TR To AP
3	01/31	(H)	DR - TSDP: AP To TR
4	01/31	(H)	Title Suff Do Pass
5	02/07	(H)	Passed {Vote}
6	02/08	(H)	Transmitted To Senate
7	02/12	(S)	Referred To Highways and Transportation; Appropriations
8	02/28	(S)	DR - TSDP: HI To AP
9	03/05	(S)	Title Suff Do Pass
10	03/07	(S)	Passed {Vote}
11	03/08	(S)	Transmitted To House
12	03/12	(H)	Enrolled Bill Signed
13	03/12	(S)	Enrolled Bill Signed
14	03/20		Approved by Governor

Code Section: A 037-0101-0292

----- Additional Information -----

House Committee: Transportation, Appropriations

Senate Committee: Highways and Transportation, Appropriations

Principal Author: Johnson

Title: AN ACT TO AMEND SECTION 37-101-292, MISSISSIPPI CODE OF 1972, TO REVISE FROM A PAID EDUCATIONAL LEAVE PROGRAM TO A STIPEND

PROGRAM FOR CONTRACTUAL SERVICES EMPLOYEES THE MISSISSIPPI DEPARTMENT OF TRANSPORTATION PROGRAM FOR UNDERGRADUATE AND GRADUATE CIVIL ENGINEERING STUDENTS WHO AGREE TO WORK AS A CIVIL ENGINEER AT THE DEPARTMENT FOR A CERTAIN AMOUNT OF TIME; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI HB 373

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Transportation; Appropriations

By: Representative Johnson

House Bill 373

(As Sent to Governor)

AN ACT TO AMEND SECTION 37-101-292, MISSISSIPPI CODE OF 1972, TO REVISE FROM A PAID EDUCATIONAL LEAVE PROGRAM TO A STIPEND PROGRAM FOR CONTRACTUAL SERVICES EMPLOYEES THE MISSISSIPPI DEPARTMENT OF TRANSPORTATION PROGRAM FOR UNDERGRADUATE AND GRADUATE CIVIL ENGINEERING STUDENTS WHO AGREE TO WORK AS A CIVIL ENGINEER AT THE DEPARTMENT FOR A CERTAIN AMOUNT OF TIME; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 37-101-292, Mississippi Code of 1972, is amended as follows:

37-101-292. (1) Within the limits of the funds available to the Mississippi * * * Transportation Commission for such purpose, the Executive Director of the Mississippi Department of Transportation may * * * pay a stipend to contractual services employees for educational expenses such as tuition, books and related fees to pursue junior or senior undergraduate level year coursework toward a bachelor's degree in civil engineering or graduate level coursework toward a master's degree in civil engineering to those applicants deemed qualified. It is the intent of the Legislature that such an educational * * * program shall be used * * * as a method of encouraging recruitment of well-qualified civil engineers for employment with the Mississippi Department of Transportation.

(2) (a) In order to be eligible for * * * this program an undergraduate participant must:

(i) Have successfully obtained a minimum of fifty-eight (58) semester hours toward a bachelor of science in civil engineering from a state institution of higher learning that has been fully accredited by the Accreditation Board of Engineering and Technology;

(ii) Have achieved a minimum grade point average of 2.75 on a 4.0 scale on the previously obtained semester hours toward a bachelor of science in civil engineering; and

(* * * iii) Agree to work as a civil engineer at the Mississippi Department of Transportation for a period of time equivalent to the period of time for which the applicant receives * * * a stipend for educational expenses calculated to the nearest whole month* * *.

(b) In order to be eligible for this program a graduate participant must:

(i) Have obtained a bachelor of science in civil engineering from a state institution of higher learning that has been fully accredited by the Accreditation Board of Engineering and Technology;

(ii) Have met the regular admission standards and been accepted into a master of science in civil engineering program at a state institution of higher learning that has been fully accredited by the Accreditation Board of Engineering and Technology;

(iii) Have submitted a proposed graduate program thesis project for review by the Department of Transportation; and

(iv) Agree to work as a civil engineer at the Mississippi Department of Transportation for a period of time equivalent to the period of time for which the applicant receives a stipend for educational expenses calculated to the nearest whole month.

(3) (a) * * * Each participant shall enter into a contract with the Mississippi* * * Transportation Commission, which shall be deemed a contract with the State of Mississippi, agreeing to the terms and conditions upon which the* * * stipend shall be granted to him. The contract shall include such terms and provisions necessary to carry out the full purpose and intent of this section. The form of such contract shall be prepared and approved by the Attorney General of this state, and shall be signed by the Executive Director of the Mississippi Department of Transportation and the recipient. If the recipient is a minor, his minority disabilities shall be removed by a chancery court of competent jurisdiction before the contract is signed.

(b) The Mississippi * * * Transportation Commission may cancel any contract made between it and any * * * participant upon such cause being deemed sufficient by the executive director.

(c) The Mississippi* * * Transportation Commission is vested with full and complete authority and power to sue in its own name any recipient for any balance due the state on any such uncompleted contract, which suit shall be filed and handled by the Attorney General of the state. The Mississippi* * * Transportation Commission may contract with a collection agency or banking institution, subject to approval by the Attorney General, for collection of any balance due the state from any recipient. The State of Mississippi, the Mississippi Transportation Commission and the Mississippi Department of Transportation and its employees are immune from any suit brought in law or equity for actions taken by the collection agency or banking institution incidental to or arising from their performance under the contract. The Mississippi* * * Transportation Commission* * * may negotiate for the payment of a sum that is less than full payment in order to satisfy any balance the recipient owes the state, if necessary or advisable* * *.

(* * * d) Notice of pending default status shall be mailed to the recipient at the last known address * * * prior to commencing a lawsuit.

(* * * e) The sponsoring agency shall conduct a hearing of pending default status, make a final determination, and issue an Order of Default, if appropriate.

(* * * f) Recipients may appear either personally or by counsel, or both, and produce and cross-examine witnesses or evidence in the recipient's behalf. The procedure of the hearing shall not be bound by the Mississippi Rules of Civil Procedure and Evidence.

* * *

(* * * g) Appeals from a finding of default by the sponsoring agency shall be to the Circuit Court of Hinds County.* * *

(* * * h) Rules and regulations governing * * * this program and other applicable matters * * * may be promulgated by the sponsoring agency.

* * *

SECTION 2. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

House Bill 374

Description: Health insurance; prohibit issuance of policy restricting insurer from assigning benefits to provider.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Three/Fifths

Effective date: July 1, 2013

Chapter Number: 302

History of Actions:

- | | | | |
|----|-------|-----|-----------------------|
| 1 | 01/21 | (H) | Referred To Insurance |
| 2 | 01/22 | (H) | Title Suff Do Pass |
| 3 | 01/24 | (H) | Passed {Vote} |
| 4 | 01/25 | (H) | Transmitted To Senate |
| 5 | 01/25 | (S) | Referred To Insurance |
| 6 | 01/30 | (S) | Title Suff Do Pass |
| 7 | 02/07 | (S) | Passed {Vote} |
| 8 | 02/08 | (S) | Transmitted To House |
| 9 | 02/12 | (H) | Enrolled Bill Signed |
| 10 | 02/12 | (S) | Enrolled Bill Signed |
| 11 | 02/18 | | Approved by Governor |

Code Section: A 083-0009-0003, A 083-0009-0005

----- Additional Information -----

House Committee: Insurance

Senate Committee: Insurance

Principal Author: Chism

Title: AN ACT TO AMEND SECTION 83-9-3, MISSISSIPPI CODE OF 1972, TO PROHIBIT THE ISSUANCE OF HEALTH INSURANCE POLICIES THAT RESTRICT AN INSURER FROM ASSIGNING BENEFITS TO A HEALTH CARE PROVIDER; TO AMEND SECTION 83-9-5, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT IF AN INSURED PROVIDES AN INSURER WITH WRITTEN DIRECTIONS THAT THE BENEFITS PROVIDED BY A HEALTH INSURANCE POLICY BE PAID TO

A HEALTH CARE PROVIDER RENDERING SERVICES, THEN THE INSURER SHALL PAY DIRECTLY THE HEALTH CARE PROVIDER; TO PROVIDE THAT THE PAYMENT SHALL BE CONSIDERED PAYMENT IN FULL TO THE PROVIDER, WHO MAY NOT BILL OR COLLECT FROM THE INSURED ANY AMOUNT ABOVE THAT PAYMENT, OTHER THAN THE DEDUCTIBLE, COINSURANCE, COPAYMENT OR OTHER CHARGES FOR EQUIPMENT OR SERVICES REQUESTED BY THE INSURED THAT ARE NONCOVERED BENEFITS; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI HB 374

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Insurance

By: Representative Chism

House Bill 374

(As Sent to Governor)

AN ACT TO AMEND SECTION 83-9-3, MISSISSIPPI CODE OF 1972, TO PROHIBIT THE ISSUANCE OF HEALTH INSURANCE POLICIES THAT RESTRICT AN INSURER FROM ASSIGNING BENEFITS TO A HEALTH CARE PROVIDER; TO AMEND SECTION 83-9-5, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT IF AN INSURED PROVIDES AN INSURER WITH WRITTEN DIRECTIONS THAT THE BENEFITS PROVIDED BY A HEALTH INSURANCE POLICY BE PAID TO A HEALTH CARE PROVIDER RENDERING SERVICES, THEN THE INSURER SHALL PAY DIRECTLY THE HEALTH CARE PROVIDER; TO PROVIDE THAT THE PAYMENT SHALL BE CONSIDERED PAYMENT IN FULL TO THE PROVIDER, WHO MAY NOT BILL OR COLLECT FROM THE INSURED ANY AMOUNT ABOVE THAT PAYMENT, OTHER THAN THE DEDUCTIBLE, COINSURANCE, COPAYMENT OR OTHER CHARGES FOR EQUIPMENT OR SERVICES REQUESTED BY THE INSURED THAT ARE NONCOVERED BENEFITS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 83-9-3, Mississippi Code of 1972, is amended as follows:

83-9-3. (1) No policy of accident and sickness insurance shall be delivered or issued for delivery to any person in this state unless:

(a) The entire money and other considerations therefor are expressed therein; and

(b) The time at which the insurance takes effect and terminates is expressed therein; and

(c) It purports to insure only one (1) person, except that a policy may insure, originally or by subsequent amendment, upon the application of an adult member of a family who shall be deemed the policyholder, any two (2) or more eligible members of that family, including husband, wife, dependent children or any children under a specified age which shall not exceed nineteen (19) years, and any other person dependent upon the policyholder; and

(d) The style, arrangement and overall appearance of the policy give no undue prominence to any portion of the text, and unless every printed portion of the text of the policy and of any endorsements or attached papers is plainly printed in lightfaced type of a style in general use, the size of which shall be uniform and not less than ten-point with a lowercase unspaced alphabet length not less than one-hundred-twenty-point (the "text" shall include all printed matter except the name and address of the insurer, name or title of the policy, the brief description if any, and captions and subcaptions); and

(e) The exceptions and reductions of indemnity are set forth in the policy and, except those which are set forth in Section 83-9-5, are printed, at the insurer's option, either with the benefit provision to which they apply, or under an appropriate caption such as "Exceptions" or "Exceptions and Reductions," provided that if an exception or reduction specifically applies only to a particular benefit of the policy, a statement of such exception or reduction shall be included with the benefit provision to which it applies; and

(f) Each such form, including riders and endorsements, shall be identified by a form number in the lower left-hand corner of the first page thereof; and

(g) It contains no provision purporting to make any portion of the charter, rules, constitution or bylaws of the insurer a part of the policy unless such portion is set forth in full in the policy, except in the case of the incorporation of, or reference to, a statement of rates or classification of risks, or short-rate table filed with the commissioner.

(2) No individual or group policy covering health and accident insurance (including experience-rated insurance contracts, indemnity contracts, self-insured plans and self-funded plans), or any group combinations of these coverages, shall be issued by any commercial insurer doing business in this state which, by the terms of such policy, limits or excludes payment because the individual or group insured is eligible for or is being provided medical assistance under the Mississippi Medicaid Law. Any such policy provision in violation of this section shall be invalid.

(3) No individual or group policy covering health and accident insurance (including experience-rated insurance contracts, indemnity contracts, self-insured plans and self-

funded plans) or any group combinations of these coverages, shall be issued by any commercial insurer doing business in this state, which, by the terms of such policy, limits or restricts the insured's ability to assign the insured's benefits under the policy to a licensed health care provider that provides health care services to the insured. Any such policy provision in violation of this subsection shall be invalid.

(4) If any policy is issued by an insurer domiciled in this state for delivery to a person residing in another state, and if the official having responsibility for the administration of the insurance laws of such other state shall have advised the commissioner that any such policy is not subject to approval or disapproval by such official, the commissioner may, by ruling, require that such policy meet the standards set forth in subsection (1) of this section and in Section 83-9-5.

(* * * 5) The commissioner shall collect and pay into the Special Fund in the State Treasury designated as the "Insurance Department Fund" the following fees for services provided under this section:

FORM	FEE
Each individual policy contract, including revisions.....	\$15.00
Each group master policy or contract, including revisions.....	15.00
Each rider, endorsement or amendment, etc	10.00
Each insurance application where written application is required and is to be made a part of the policy or contract.....	10.00
Each questionnaire	7.00
Charge for resubmission where payment is not included with original submission.....	5.00

Additional charge for tentative approval same as above.

(* * * 6) In order to expedite and become more efficient in reviewing and approving accident and health form and rate filings, the commissioner may establish an expedited form and rate review procedure whereby insurers may elect to pay reasonable actuarial fees directly to a department-approved

actuarial service in exchange for an expedited review of form and rate filings by the actuarial service. The commissioner may make such reasonable rules and regulations concerning the expedited procedure, and may set reasonable fees for the actuarial services provided. This provision shall not abridge any other authority granted to the commissioner by law, including the authority to collect the filing fees prescribed by this section.

SECTION 2. Section 83-9-5, Mississippi Code of 1972, is amended as follows:

83-9-5. (1) **Required provisions.** Except as provided in subsection (3) of this section, each such policy delivered or issued for delivery to any person in this state shall contain the provisions specified in this subsection in the words in which the same appear in this section. However, the insurer may, at its option, substitute for one or more of such provisions, corresponding provisions of different wording approved by the commissioner which are in each instance not less favorable in any respect to the insured or the beneficiary. Such provisions shall be preceded individually by the caption appearing in this subsection or, at the option of the insurer, by such appropriate individual or group captions or subcaptions as the commissioner may approve.

As used in this section, the term "insurer" means a health maintenance organization, an insurance company or any other entity responsible for the payment of benefits under a policy or contract of accident and sickness insurance; however, the term "insurer" shall not mean a liquidator, rehabilitator, conservator or receiver or third-party administrator of any health maintenance organization, insurance company or other entity responsible for the payment of benefits which is in liquidation, rehabilitation or conservation proceedings, nor shall it mean any responsible guaranty association. Further, no cause of action shall accrue against a liquidator, rehabilitator, conservator or receiver or third-party administrator of any health maintenance organization, insurance company or other entity responsible for the payment of benefits which is in liquidation, rehabilitation or conservation proceedings or any responsible guaranty association under* * * paragraph (h)3 of this* * * subsection or any policy provision in accordance therewith.

(a) A provision as follows:

Entire contract; changes: This policy, including the endorsements and the attached papers, if any, constitutes the entire contract of insurance. No change in this policy shall be valid until approved by an executive officer of the insurer and unless such approval be endorsed hereon or attached hereto. No agent has authority to change this policy or to waive any of its provisions.

(b) A provision as follows:

Time limit on certain defenses:

1. After two (2) years from the date of issue of this policy, no misstatements, except fraudulent misstatements, made by the applicant in the application for such policy shall be used to void the policy or to deny a claim for loss incurred or disability (as defined in the policy) commencing after the expiration of such two-year period.

(The foregoing policy provision shall not be so construed as to effect any legal requirement for avoidance of a policy or denial of a claim during such initial two-year period, nor to limit the application of* * * subsection (2) (a) and (2) (b) of this section in the event of misstatement with respect to age or occupation.)

(A policy which the insured has the right to continue in force subject to its terms by the timely payment of premium (1) until at least age fifty (50) or, (2) in the case of a policy issued after age forty-four (44), for at least five (5) years from its date of issue, may contain in lieu of the foregoing the following provision (from which the clause in parentheses may be omitted at the insurer's option) under the caption "INCONTESTABLE":

After this policy has been in force for a period of two (2) years during the lifetime of the insured (excluding any period during which the insured is disabled), it shall become incontestable as to the statements in the application.)

2. No claim for loss incurred or disability (as defined in the policy) commencing after two (2) years from the date of issue of this policy shall be reduced or denied on the ground that a disease or physical condition not excluded from coverage by name or specific description effective on the date of loss had existed prior to the effective date of coverage of this policy.

(c) A provision as follows:

Grace period:

A grace period of seven (7) days for weekly premium policies, ten (10) days for monthly premium policies and thirty-one (31) days for all other policies will be granted for the payment of each premium falling due after the first premium, during which grace period the policy shall continue in force.

(A policy which contains a cancellation provision may add, at the end of the above provision, "subject to the right of the insurer to cancel in accordance with the cancellation provision hereof."

A policy in which the insurer reserves the right to refuse any renewal shall have, at the beginning of the above provision, "unless not less than five (5) days prior to the premium due date the insurer has delivered to the insured or has mailed to his last address as shown by the records of the insurer written notice of its intention not to renew this policy beyond the period for which the premium has been accepted.")

(d) A provision as follows:

Reinstatement:

If any renewal premium be not paid within the time granted the insured for payment, a subsequent acceptance of premium by the insurer or by any agent duly authorized by the insurer to accept such premium, without requiring in connection therewith an application for reinstatement, shall reinstate the policy. However, if the insurer or such agent requires an application for reinstatement and issues a conditional receipt for the premium tendered, the policy will be reinstated upon approval of such application by the insurer or, lacking such approval, upon the forty-fifth day following the date of such conditional receipt unless the insurer has previously notified the insured in writing of its disapproval of such application. The reinstated policy shall cover only loss resulting from such accidental injury as may be sustained after the date of reinstatement and loss due to such sickness as may begin more than ten (10) days after such date. In all other respects the insured and insurer shall have the same rights thereunder as they had under the policy immediately before the due date of the defaulted premium, subject to any

provisions endorsed hereon or attached hereto in connection with the reinstatement. Any premium accepted in connection with a reinstatement shall be applied to a period for which premium has not been previously paid, but not to any period more than sixty (60) days prior to the date of reinstatement. (The last sentence of the above provision may be omitted from any policy which the insured has the right to continue in force subject to its terms by the timely payment of premiums (1) until at least age fifty (50) or, (2) in the case of a policy issued after age forty-four (44), for at least five (5) years from its date of issue.)

(e) A provision as follows:

Notice of claim:

Written notice of claim must be given to the insurer within thirty (30) days after the occurrence or commencement of any loss covered by the policy, or as soon thereafter as is reasonably possible. Notice given by or on behalf of the insured or the beneficiary to the insurer at _____ (insert the location of such office as the insurer may designate for the purpose), or to any authorized agent of the insurer, with information sufficient to identify the insured, shall be deemed notice to the insurer.

(In a policy providing a loss of time benefit which may be payable for at least two (2) years, an insurer may, at its option, insert the following between the first and second sentences of the above provision: "Subject to the qualifications set forth below, if the insured suffers loss of time on account of disability for which indemnity may be payable for at least two (2) years, he shall, at least once in every six (6) months after having given notice of claim, give to the insurer notice of continuance of said disability, except in the event of legal incapacity. The period of six (6) months following any filing of proof by the insured or any payment by the insurer on account of such claim or any denial of liability, in whole or in part, by the insurer shall be excluded in applying this provision. Delay in the giving of such notice shall not impair the insured's right to any indemnity which would otherwise have accrued during the period of six (6) months preceding the date on which such notice is actually given.")

(f) A provision as follows:

Claim forms:

The insurer, upon receipt of a notice of claim, will furnish to the claimant such forms as are usually furnished by it for filing proofs of loss. If such forms are not furnished within fifteen (15) days after the giving of such notice, the claimant shall be deemed to have complied with the requirements of this policy as to proof of loss upon submitting, within the time fixed in the policy for filing proofs of loss, written proof covering the occurrence, the character and the extent of the loss for which claim is made.

(g) A provision as follows:

Proofs of loss:

Written proof of loss must be furnished to the insurer at its said office, in case of claim for loss for which this policy provides any periodic payment contingent upon continuing loss, within ninety (90) days after the termination of the period for which the insurer is liable, and in case of claim for any other loss, within ninety (90) days after the date of such loss. Failure to furnish such proof within the time required shall not invalidate or reduce any claim if it was not reasonably possible to give proof within such time, provided such proof is furnished as soon as reasonably possible and in no event, except in the absence of legal capacity, later than one (1) year from the time proof is otherwise required.

(h) A provision as follows:

Time of payment of claims:

1. All benefits payable under this policy for any loss, other than loss for which this policy provides any periodic payment, will be paid within twenty-five (25) days after receipt of due written proof of such loss in the form of a clean claim where claims are submitted electronically, and will be paid within thirty-five (35) days after receipt of due written proof of such loss in the form of clean claim where claims are submitted in paper format. Benefits due under the policies and claims are overdue if not paid within twenty-five (25) days or thirty-five (35) days, whichever is applicable, after the insurer receives a clean claim containing necessary medical information and other information essential for the insurer to administer preexisting condition, coordination of benefits and subrogation provisions. A "clean claim" means

a claim received by an insurer for adjudication and which requires no further information, adjustment or alteration by the provider of the services or the insured in order to be processed and paid by the insurer. A claim is clean if it has no defect or impropriety, including any lack of substantiating documentation, or particular circumstance requiring special treatment that prevents timely payment from being made on the claim under this provision. A clean claim includes resubmitted claims with previously identified deficiencies corrected.

A clean claim does not include any of the following:

a. A duplicate claim, which means an original claim and its duplicate when the duplicate is filed within thirty (30) days of the original claim;

b. Claims which are submitted fraudulently or that are based upon material misrepresentations;

c. Claims that require information essential for the insurer to administer preexisting condition, coordination of benefits or subrogation provisions; or

d. Claims submitted by a provider more than thirty (30) days after the date of service; if the provider does not submit the claim on behalf of the insured, then a claim is not clean when submitted more than thirty (30) days after the date of billing by the provider to the insured.

Not later than twenty-five (25) days after the date the insurer actually receives an electronic claim, the insurer shall pay the appropriate benefit in full, or any portion of the claim that is clean, and notify the provider (where the claim is owed to the provider) or the insured (where the claim is owed to the insured) of the reasons why the claim or portion thereof is not clean and will not be paid and what substantiating documentation and information is required to adjudicate the claim as clean. Not later than thirty-five (35) days after the date the insurer actually receives a paper claim, the insurer shall pay the appropriate benefit in full, or any portion of the claim that is clean, and notify the provider (where the claim is owed to the provider) or the insured (where the claim is owed to the insured) of the reasons why the claim or portion thereof is not clean and will not be paid and what substantiating documentation and information is required to adjudicate the claim as clean. Any claim or portion thereof resubmitted with the supporting

documentation and information requested by the insurer shall be paid within twenty (20) days after receipt.

For purposes of this provision, the term "pay" means that the insurer shall either send cash or a cash equivalent by United States mail, or send cash or a cash equivalent by other means such as electronic transfer, in full satisfaction of the appropriate benefit due the provider (where the claim is owed to the provider) or the insured (where the claim is owed to the insured). To calculate the extent to which any benefits are overdue, payment shall be treated as made on the date a draft or other valid instrument was placed in the United States mail to the last known address of the provider (where the claim is owed to the provider) or the insured (where the claim is owed to the insured) in a properly addressed, postpaid envelope, or, if not so posted, or not sent by United States mail, on the date of delivery of payment to the provider or insured.

2. Subject to due written proof of loss, all accrued benefits for loss for which this policy provides periodic payment will be paid _____ (insert period for payment which must not be less frequently than monthly), and any balance remaining unpaid upon the termination of liability will be paid within thirty (30) days after receipt of due written proof.

3. If the claim is not denied for valid and proper reasons by the end of the applicable time period prescribed in this provision, the insurer must pay the provider (where the claim is owed to the provider) or the insured (where the claim is owed to the insured) interest on accrued benefits at the rate of one and one-half percent (1-1/2%) per month accruing from the day after payment was due on the amount of the benefits that remain unpaid until the claim is finally settled or adjudicated. Whenever interest due pursuant to this provision is less than One Dollar (\$1.00), such amount shall be credited to the account of the person or entity to whom such amount is owed.

4. In the event the insurer fails to pay benefits when due, the person entitled to such benefits may bring action to recover such benefits, any interest which may accrue as provided in* * * paragraph (h)3 of this* * * subsection and any other damages as may be allowable by law.

(i) A provision as follows:

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Payment of claims:

Indemnity for loss of life will be payable in accordance with the beneficiary designation and the provisions respecting such payment which may be prescribed herein and effective at the time of payment. If no such designation or provision is then effective, such indemnity shall be payable to the estate of the insured. Any other accrued indemnities unpaid at the insured's death may, at the option of the insurer, be paid either to such beneficiary or to such estate. All other indemnities will be payable to the insured. When payments of benefits are made to an insured directly for medical care or services rendered by a health care provider, the health care provider shall be notified of such payment. The notification requirement shall not apply to a fixed-indemnity policy, a limited benefit health insurance policy, medical payment coverage or personal injury protection coverage in a motor vehicle policy, coverage issued as a supplement to liability insurance or workers' compensation. If the insured provides the insurer with written direction that all or a portion of any indemnities or benefits provided by the policy be paid to a licensed health care provider rendering hospital, nursing, medical or surgical services, then the insurer shall pay directly the licensed health care provider rendering such services. That payment shall be considered payment in full to the provider, who may not bill or collect from the insured any amount above that payment, other than the deductible, coinsurance, copayment or other charges for equipment or services requested by the insured that are noncovered benefits.

(The following provision* * * may be included with the foregoing provision at the option of the insurer: "If any indemnity of this policy shall be payable to the estate of the insured, or to an insured or beneficiary who is a minor or otherwise not competent to give a valid release, the insurer may pay such indemnity, up to an amount not exceeding \$_____ (insert an amount which must not exceed One Thousand Dollars (\$1,000.00)), to any relative by blood or connection by marriage of the insured or beneficiary who is deemed by the insurer to be equitably entitled thereto. Any payment made by the insurer in good faith pursuant to this provision shall fully discharge the insurer to the extent of such payment."

* * *

(j) A provision as follows:

Physical examinations:

The insurer at his own expense shall have the right and opportunity to examine the person of the insured when and as often as it may reasonably require during the pendency of a claim hereunder.

(k) A provision as follows:

Legal actions:

No action at law or in equity shall be brought to recover on this policy prior to the expiration of sixty (60) days after written proof of loss has been furnished in accordance with the requirements of this policy. No such action shall be brought after the expiration of three (3) years after the time written proof of loss is required to be furnished.

(l) A provision as follows:

Change of beneficiary:

Unless the insured makes an irrevocable designation of beneficiary, the right to change the beneficiary is reserved to the insured, and the consent of the beneficiary or beneficiaries shall not be requisite to surrender or assignment of this policy, or to any change of beneficiary or beneficiaries, or to any other changes in this policy.

(The first clause of this provision, relating to the irrevocable designation of beneficiary, may be omitted at the insurer's option.)

(2) **Other provisions.** Except as provided in subsection (3) of this section, no such policy delivered or issued for delivery to any person in this state shall contain provisions respecting the matters set forth below unless such provisions are in the words in which the same appear in this section. However, the insurer may, at its option, use in lieu of any such provision a corresponding provision of different wording approved by the commissioner which is not less favorable in any respect to the insured or the beneficiary. Any such provision contained in the policy shall be preceded individually by the appropriate caption appearing in this subsection or, at the option of the insurer, by such appropriate individual or group captions or subcaptions as the commissioner may approve.

(a) A provision as follows:

Change of occupation:

If the insured be injured or contract sickness after having changed his occupation to one classified by the insurer as more hazardous than that stated in this policy or while doing for compensation anything pertaining to an occupation so classified, the insurer will pay only such portion of the indemnities provided in this policy as the premium paid would have purchased at the rates and within the limits fixed by the insurer for such more hazardous occupation. If the insured changes his occupation to one classified by the insurer as less hazardous than that stated in this policy, the insurer, upon receipt of proof of such change of occupation, will reduce the premium rate accordingly, and will return the excess pro rata unearned premium from the date of change of occupation or from the policy anniversary date immediately preceding receipt of such proof, whichever is the most recent. In applying this provision, the classification of occupational risk and the premium rates shall be such as have been last filed by the insurer prior to the occurrence of the loss for which the insurer is liable, or prior to date of proof of change in occupation, with the state official having supervision of insurance in the state where the insured resided at the time this policy was issued; but if such filing was not required, then the classification of occupational risk and the premium rates shall be those last made effective by the insurer in such state prior to the occurrence of the loss or prior to the date of proof of change in occupation.

(b) A provision as follows:

Misstatement of age:

If the age of the insured has been misstated, all amounts payable under this policy shall be such as the premium paid would have purchased at the correct age.

(c) A provision as follows:

Relation of earnings to issuance:

If the total monthly amount of loss of time benefits promised for the same loss under all valid loss of time coverage upon the insured, whether payable on a weekly or monthly basis, shall exceed the monthly earnings of the insured at the time disability commenced or his average monthly earnings for the period of two (2) years immediately preceding a disability for which claim is made, whichever is the greater, the insurer will

be liable only for such proportionate amount of such benefits under this policy as the amount of such monthly earnings or such average monthly earnings of the insured bears to the total amount of monthly benefits for the same loss under all such coverage upon the insured at the time such disability commences and for the return of such part of the premiums paid during such two (2) years as shall exceed the pro rata amount of the premiums for the benefits actually paid hereunder; but this shall not operate to reduce the total monthly amount of benefits payable under all such coverage upon the insured below the sum of Two Hundred Dollars (\$200.00) or the sum of the monthly benefits specified in such coverages, whichever is the lesser, nor shall it operate to reduce benefits other than those payable for loss of time.

(The foregoing policy provision may be inserted only in a policy which the insured has the right to continue in force subject to its terms by the timely payment of premiums (1) until at least age fifty (50) or, (2) in the case of a policy issued after age forty-four (44), for at least five (5) years from its date of issue. The insurer may, at its option, include in this provision a definition of "valid loss of time coverage," approved as to form by the commissioner, which definition shall be limited in subject matter to coverage provided by governmental agencies or by organizations subject to regulations by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, or to any other coverage the inclusion of which may be approved by the commissioner, or any combination of such coverages. In the absence of such definition, such term shall not include any coverage provided for such insured pursuant to any compulsory benefit statute (including any workers' compensation or employer's liability statute), or benefits provided by union welfare plans or by employer or employee benefit organizations.)

(d) A provision as follows:

Unpaid premium:

Upon the payment of a claim under this policy, any premium then due and unpaid or covered by any note or written order may be deducted therefrom.

(e) A provision as follows:

Cancellation:

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The insurer may cancel this policy at any time by written notice delivered to the insured, or mailed to his last address as shown by the records of the insurer, stating when, not less than five (5) days thereafter, such cancellation shall be effective; and after the policy has been continued beyond its original term, the insured may cancel this policy at any time by written notice delivered or mailed to the insurer, effective upon receipt or on such later date as may be specified in such notice. In the event of cancellation, the insurer will return promptly the unearned portion of any premium paid. If the insured cancels, the earned premium shall be computed by the use of the short-rate table last filed with the state official having supervision of insurance in the state where the insured resided when the policy was issued. If the insurer cancels, the earned premium shall be computed pro rata. Cancellation shall be without prejudice to any claim originating prior to the effective date of cancellation.

(f) A provision as follows:

Conformity with state statutes:

Any provision of this policy which, on its effective date, is in conflict with the statutes of the state in which the insured resides on such date is hereby amended to conform to the minimum requirements of such statutes.

(g) A provision as follows:

Illegal occupation:

The insurer shall not be liable for any loss to which a contributing cause was the insured's commission of or attempt to commit a felony or to which a contributing cause was the insured's being engaged in an illegal occupation.

(h) A provision as follows:

Intoxicants and narcotics:

The insurer shall not be liable for any loss sustained or contracted in consequence of the insured's being intoxicated or under the influence of any narcotic unless administered on the advice of a physician.

(3) Inapplicable or inconsistent provisions. If any provision of this section is, in whole or in part, inapplicable to or inconsistent with the coverage provided by a particular form of policy, the insurer, with the approval of the commissioner, shall omit from such policy any inapplicable provision or part

of a provision, and shall modify any inconsistent provision or part of the provision in such manner as to make the provision as contained in the policy consistent with the coverage provided by the policy.

(4) **Order of certain policy provisions.** The provisions which are the subject of subsections (1) and (2) of this section, or any corresponding provisions which are used in lieu thereof in accordance with such subsections, shall be printed in the consecutive order of the provisions in such subsections or, at the option of the insurer, any such provision may appear as a unit in any part of the policy, with other provisions to which it may be logically related, provided the resulting policy shall not be, in whole or in part, unintelligible, uncertain, ambiguous, abstruse or likely to mislead a person to whom the policy is offered, delivered or issued.

(5) **Third-party ownership.** The word "insured," as used in Sections 83-9-1 through 83-9-21, Mississippi Code of 1972, shall not be construed as preventing a person other than the insured with a proper insurable interest from making application for and owning a policy covering the insured, or from being entitled under such a policy to any indemnities, benefits and rights provided therein.

(6) **Requirements of other jurisdictions.**

(a) Any policy of a foreign or alien insurer, when delivered or issued for delivery to any person in this state, may contain any provision which is not less favorable to the insured or the beneficiary than the provisions of Sections 83-9-1 through 83-9-21, Mississippi Code of 1972, and which is prescribed or required by the law of the state under which the insurer is organized.

(b) Any policy of a domestic insurer may, when issued for delivery in any other state or country, contain any provision permitted or required by the laws of such other state or country.

(7) **Filing procedure.** The commissioner may make such reasonable rules and regulations concerning the procedure for the filing or submission of policies subject to the cited sections as are necessary, proper or advisable to the administration of said sections. This provision shall not abridge any other authority granted the commissioner by law.

(8) **Administrative penalties.**

(a) If the commissioner finds that an insurer, during any calendar year, has paid at least eighty-five percent (85%), but less than ninety-five percent (95%), of all clean claims received from all providers during that year in accordance with the provisions of subsection (1)(h) of this section, the commissioner may levy an aggregate penalty in an amount not to exceed Ten Thousand Dollars (\$10,000.00). If the commissioner finds that an insurer, during any calendar year, has paid at least fifty percent (50%), but less than eighty-five percent (85%), of all clean claims received from all providers during that year in accordance with the provisions of subsection (1)(h) of this section, the commissioner may levy an aggregate penalty in an amount of not less than Ten Thousand Dollars (\$10,000.00) nor more than One Hundred Thousand Dollars (\$100,000.00). If the commissioner finds that an insurer, during any calendar year, has paid less than fifty percent (50%) of all clean claims received from all providers during that year in accordance with the provisions of subsection (1)(h) of this section, the commissioner may levy an aggregate penalty in an amount not less than One Hundred Thousand Dollars (\$100,000.00) nor more than Two Hundred Thousand Dollars (\$200,000.00). In determining the amount of any fine, the commissioner shall take into account whether the failure to achieve the standards in subsection (1)(h) of this section were due to circumstances beyond the control of the insurer. The insurer may request an administrative hearing to contest the assessment of any administrative penalty imposed by the commissioner pursuant to this subsection within thirty (30) days after receipt of the notice of assessment.

(b) Examinations to determine compliance with subsection (1)(h) of this section may be conducted by the commissioner or any of his examiners. The commissioner may contract with qualified impartial outside sources to assist in examinations to determine compliance. The expenses of any such examinations shall be paid by the insurer examined.

(c) Nothing in the provisions of subsection (1)(h) of this section shall require an insurer to pay claims that are not covered under the terms of a contract or policy of accident and sickness insurance.

(d) An insurer and a provider may enter into an express written agreement containing timely claim payment provisions which differ from, but are at least as stringent as, the

provisions set forth under subsection (1)(h) of this section, and in such case, the provisions of the written agreement shall govern the timely payment of claims by the insurer to the provider. If the express written agreement is silent as to any interest penalty where claims are not paid in accordance with the agreement, the interest penalty provision of subsection (1)(h)3 of this section shall apply.

(e) The commissioner may adopt rules and regulations necessary to ensure compliance with this subsection.

SECTION 3. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

House Bill 394

Description: Municipalities and counties; authorize to sell surplus real and personal property at public auction.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2013

Chapter Number: 364

History of Actions:

- | | | | |
|----|-------|-----|--|
| 1 | 01/21 | (H) | Referred To County Affairs; Municipalities |
| 2 | 01/30 | (H) | DR - TSDP: CA To MU |
| 3 | 01/31 | (H) | DR - TSDP: MU To CA |
| 4 | 01/31 | (H) | Title Suff Do Pass |
| 5 | 02/07 | (H) | Passed {Vote} |
| 6 | 02/08 | (H) | Transmitted To Senate |
| 7 | 02/19 | (S) | Referred To County Affairs; Municipalities |
| 8 | 02/27 | (S) | DR - TSDP: CA To MU |
| 9 | 02/28 | (S) | Title Suff Do Pass |
| 10 | 03/07 | (S) | Passed {Vote} |
| 11 | 03/08 | (S) | Transmitted To House |
| 12 | 03/12 | (S) | Enrolled Bill Signed |
| 13 | 03/12 | (H) | Enrolled Bill Signed |
| 14 | 03/18 | | Approved by Governor |

Code Section: A 017-0025-0025, A 019-0007-0005, A 021-0017-0001

----- Additional Information -----

House Committee: County Affairs, Municipalities

Senate Committee: County Affairs, Municipalities

Principal Author: Reynolds

Additional Authors: Barton, Bennett

Title: AN ACT TO AMEND SECTION 17-25-25, MISSISSIPPI CODE OF 1972, TO AUTHORIZE MUNICIPALITIES AND COUNTIES TO SELL OR DISPOSE OF

ANY SURPLUS PERSONAL OR REAL PROPERTY AT A PUBLIC AUCTION THAT SHALL BE CONDUCTED BY AN AUCTIONEER OR AUCTION COMPANY THAT IS APPROVED BY THE STATE DEPARTMENT OF AUDIT WHO MEET STANDARDS ESTABLISHED BY THE STATE DEPARTMENT OF AUDIT AND ARE HIRED BY THE GOVERNING AUTHORITY OF A COUNTY OR MUNICIPALITY; TO AMEND SECTIONS 19-7-5 AND 21-17-1, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING SECTION; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI HB 394

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: County Affairs; Municipalities

By: Representatives Reynolds, Barton, Bennett

House Bill 394

(As Sent to Governor)

AN ACT TO AMEND SECTION 17-25-25, MISSISSIPPI CODE OF 1972, TO AUTHORIZE MUNICIPALITIES AND COUNTIES TO SELL OR DISPOSE OF ANY SURPLUS PERSONAL OR REAL PROPERTY AT A PUBLIC AUCTION THAT SHALL BE CONDUCTED BY AN AUCTIONEER OR AUCTION COMPANY THAT IS APPROVED BY THE STATE DEPARTMENT OF AUDIT WHO MEET STANDARDS ESTABLISHED BY THE STATE DEPARTMENT OF AUDIT AND ARE HIRED BY THE GOVERNING AUTHORITY OF A COUNTY OR MUNICIPALITY; TO AMEND SECTIONS 19-7-5 AND 21-17-1, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING SECTION; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 17-25-25, Mississippi Code of 1972, is amended as follows:

17-25-25. (1) **General.** The governing authority of a county or municipality may sell or dispose of any personal property or real property belonging to the governing authority when the property has ceased to be used for public purposes or when, in the authority's judgment, a sale thereof would promote the best interest of the governing authority. For purposes of this section, the term "personal property," includes, but is not limited to, equipment, vehicles, fixtures, furniture, firearms and commodities.

(2) **Public sale.** At least ten (10) days before bid opening, the governing authority shall advertise its acceptance of bids by posting notices at three (3) public places located in the county or municipality that the governing authority serves. One (1) of the three (3) notices shall be posted at the governing authority's main office. The governing authority may designate the manner by which the bids will be received, including, but not limited to, bids sealed in an envelope, bids made electronically or bids made by any other method that promotes open competition. The proceeds of the sale shall be placed in a properly approved depository to the credit of the proper fund.

(3) **Private sale.** Where the personal property does not exceed One Thousand Dollars (\$1,000.00) in value, the governing authority, by a unanimous approval of its members, may sell or dispose of the property at a private sale. The proceeds of the sale shall be placed in a properly approved depository to the credit of the proper fund.

(4) **Public auction.** The governing authority of a county or municipality may sell or dispose of any surplus personal or real property at a public auction that shall be conducted by an auctioneer or auction company that meets the standards established by the State Department of Audit and is hired by the governing authority of a county or municipality.

(* * * 5) If the governing authority finds that the fair market value of the personal property or real property is zero and this finding is entered on the minutes of the authority, then the governing authority may dispose of* * * such property in the manner it deems appropriate and in its best interest, but no official or employee of the governing authority shall derive any personal economic benefit from such disposal.

(* * * 6) If the* * * property may be of use or benefit to any federal agency or authority, another governing authority or state agency of the State of Mississippi, or a state agency or governing authority of another state, it may be disposed of in accordance with Section 31-7-13(m) (vi).

(* * * 7) Nothing contained in this section shall be construed to prohibit, restrict or to prescribe conditions with regard to the authority granted under Section 17-25-3.

SECTION 2. Section 19-7-5, Mississippi Code of 1972, is amended as follows:

19-7-5. The board of supervisors shall have the power to sell and dispose of any personal property and real property belonging to the county or any subdivision thereof according to the uniform personal property and real property disposal requirements for local governments in Section 17-25-25. For purposes of this section, the term "personal property," includes, but is not limited to, equipment, vehicles, fixtures, furniture, firearms and commodities.

Nothing contained in this section shall be construed to prohibit, restrict or to prescribe conditions with regard to the authority granted under Section 17-25-3.

SECTION 3. Section 21-17-1, Mississippi Code of 1972, is amended as follows:

21-17-1. (1) Every municipality of this state shall be a municipal corporation and shall have power to sue and be sued; to purchase and hold real estate, either within or without the corporate limits, for all proper municipal purposes, including parks, cemeteries, hospitals, schoolhouses, houses of correction, waterworks, electric lights, sewers and other proper municipal purposes; to purchase and hold personal property for all proper municipal purposes; to sell or dispose of personal property or real property owned by it consistent with Section 17-25-25; to acquire equipment and machinery by lease-purchase agreement and to pay interest thereon, if contracted, when needed for proper municipal purposes; and to sell and convey any real property owned by it, and make such order respecting the same as may be deemed conducive to the best interest of the municipality, and exercise jurisdiction over the same.

(2) (a) In case any of the real property belonging to a municipality shall cease to be used for municipal purposes, the governing authority of the municipality may sell, convey or lease the same on such terms as the municipal authority may elect. In case of a sale on a credit, the municipality shall charge appropriate interest as contracted and shall have a lien on the same for the purchase money, as against all persons, until paid and may enforce the lien as in such cases provided by law. The deed of conveyance in such cases shall be executed in the name of the municipality by the governing authority of the municipality pursuant to an order entered on the minutes. In any sale or conveyance of real property, the municipality shall retain all mineral rights that it owns, together with the right of ingress and egress to remove same. Except as otherwise provided in this section, before any such lease, deed or conveyance is executed, the governing authority of the municipality shall publish at least once each week for three (3) consecutive weeks, in a public newspaper of the municipality in which the real property is located, or if no newspaper be published as such, then in a newspaper having general circulation therein, the intention to lease or sell, as the case may be, the municipally owned real property and to accept sealed competitive bids for the leasing or sale. The governing authority of the municipality shall thereafter accept bids for the lease or sale and shall

award the lease or sale to the highest bidder in the manner provided by law. However, whenever the governing authority of the municipality shall find and determine, by resolution duly and lawfully adopted and spread upon its minutes (i) that any municipally owned real property is no longer needed for municipal or related purposes and is not to be used in the operation of the municipality, (ii) that the sale of such property in the manner otherwise provided by law is not necessary or desirable for the financial welfare of the municipality, and (iii) that the use of such property for the purpose for which it is to be sold, conveyed or leased will promote and foster the development and improvement of the community in which it is located and the civic, social, educational, cultural, moral, economic or industrial welfare thereof, the governing authority of the municipality shall be authorized and empowered, in its discretion, to sell, convey or lease same for any of the purposes set forth herein without having to advertise for and accept competitive bids.

(b) In any case in which a municipality proposes to sell, convey or lease real property under the provisions of this subsection (2) without advertising for and accepting competitive bids, the governing authority may sell, convey or lease the property as follows:

(i) Consideration for the purchase, conveyance or lease of the property shall be not less than the average of the fair market price for such property as determined by at least two (2) professional property appraisers selected by the municipality and approved by the purchaser or lessee. Appraisal fees shall be shared equally by the municipality and the purchaser or lessee;

(ii) The governing authority of a municipality may contract for the professional services of a Mississippi licensed real estate broker to assist the municipality in the marketing and sale or lease of the property, and may provide the broker reasonable compensation for services rendered to be paid from the sale or lease proceeds. The reasonable compensation shall not exceed the usual and customary compensation for similar services within the municipality; or

(iii) The governing authority of a municipality may lease property of less than one thousand five hundred (1,500) square feet to any person or legal entity by having two (2) appraisals establish the fair market value of the lease, and

on such other terms and conditions as the parties may agree, such lease being lawfully adopted and spread upon its official minutes.

(3) Whenever the governing authority of the municipality shall find and determine by resolution duly and lawfully adopted and spread upon the minutes that municipally owned real property is not used for municipal purposes and therefore surplus as set forth in subsection (2) of this section:

(a) (i) Except as otherwise provided in subparagraph (ii) of this paragraph (a), the governing authority may donate such lands to a bona fide not-for-profit civic or eleemosynary corporation organized and existing under the laws of the State of Mississippi and granted tax-exempt status by the Internal Revenue Service and may donate such lands and necessary funds related thereto to the public school district in which the land is situated for the purposes set forth herein. Any deed or conveyance executed pursuant hereto shall contain a clause of reverter providing that the bona fide not-for-profit corporation or public school district may hold title to such lands only so long as they are continued to be used for the civic, social, educational, cultural, moral, economic or industrial welfare of the community, and that title shall revert to the municipality in the event of the cessation of such use for a period of two (2) years. In any such deed or conveyance, the municipality shall retain all mineral rights that it owns, together with the right of ingress and egress to remove same;

(ii) If the governing authority of a municipality with a total population of greater than forty thousand (40,000) but not more than forty-two thousand five hundred (42,500) according to the 2010 federal decennial census, donates real property, to a bona fide not-for-profit civic or eleemosynary corporation and such civic or eleemosynary corporation commits Two Million Dollars (\$2,000,000.00) to renovate or make capital improvements to the property by an agreement between a certain state institution of higher learning and the civic or eleemosynary corporation, then the clause of reverter required by this paragraph shall provide that title of such real property shall revert (i) to the bona fide not-for-profit civic or eleemosynary corporation, if a certain state institution of higher learning ceases to use the property for the purposes required by this paragraph (a) for donated lands

or (ii) to the municipality, if a certain state institution of higher learning ceases to use the property for the purposes required by this paragraph (a) and the not-for-profit civic or eleemosynary corporation or its successor ceases to exist.

(b) (i) The governing authority may donate such lands to a bona fide not-for-profit corporation (such as Habitat for Humanity) which is primarily engaged in the construction of housing for persons who otherwise can afford to live only in substandard housing. In any such deed or conveyance, the municipality shall retain all mineral rights that it owns, together with the right of ingress and egress to remove same;

(ii) In the event the governing authority does not wish to donate title to such lands to the bona fide not-for-profit civic or eleemosynary corporation, but wishes to retain title to the lands, the governing authority may lease the lands to a bona fide not-for-profit corporation described in paragraph (a) or (b) for less than fair market value;

(c) The governing authority may donate any municipally owned lot measuring twenty-five (25) feet or less along the frontage line as follows: the governing authority may cause the lot to be divided in half along a line running generally perpendicular to the frontage line and may convey each one-half (1/2) of that lot to the owners of the parcels laterally adjoining the municipally owned lot. All costs associated with a conveyance under this paragraph (c) shall be paid by the person or entity to whom the conveyance is made. In any such deed or instrument of conveyance, the municipality shall retain all mineral rights that it owns, together with the right of ingress and egress to remove same;

(d) Nothing contained in this subsection (3) shall be construed to prohibit, restrict or to prescribe conditions with regard to the authority granted under Section 17-25-3.

(4) Every municipality shall also be authorized and empowered to loan to private persons or entities, whether organized for profit or nonprofit, funds received from the United States Department of Housing and Urban Development (HUD) under an urban development action grant or a community development block grant under the Housing and Community Development Act of 1974 (Public Law 93-383), as amended, and to charge interest thereon if contracted, provided that no such loan shall include any funds from any revenues other than the funds from the United States Department of Housing and

Urban Development; to make all contracts and do all other acts in relation to the property and affairs of the municipality necessary to the exercise of its governmental, corporate and administrative powers; and to exercise such other or further powers as are otherwise conferred by law.

(5) (a) The governing authority of any municipality may establish an employer-assisted housing program to provide funds to eligible employees to be used toward the purchase of a home. This assistance may be applied toward the down payment, closing costs or any other fees or costs associated with the purchase of a home. The housing assistance may be in the form of a grant, forgivable loan or repayable loan. The governing authority of a municipality may contract with one or more public or private entities to provide assistance in implementing and administering the program and shall adopt rules and regulations regarding the eligibility of a municipality for the program and for the implementation and administration of the program. However, no general funds of a municipality may be used for a grant or loan under the program.

(b) Participation in the program established under this subsection (5) shall be available to any eligible municipal employee as determined by the governing authority of the municipality. Any person who receives financial assistance under the program must purchase a house and reside within certain geographic boundaries as determined by the governing authority of the municipality.

(c) If the assistance authorized under this subsection (5) is structured as a forgivable loan, the participating employee must remain as an employee of the municipality for an agreed upon period of time, as determined by the rules and regulations adopted by the governing authority of the municipality, in order to have the loan forgiven. The forgiveness structure, amount of assistance and repayment terms shall be determined by the governing authority of the municipality.

(6) The governing authority of any municipality may contract with a private attorney or private collection agent or agency to collect any type of delinquent payment owed to the municipality, including, but not limited to, past -due fees, fines and other assessments, or with the district attorney of the circuit court district in which the municipality is located

to collect any delinquent fees, fines and other assessments. Any such contract debt may provide for payment contingent upon successful collection efforts or payment based upon a percentage of the delinquent amount collected; however, the entire amount of all delinquent payments collected shall be remitted to the municipality and shall not be reduced by any collection costs or fees. Any private attorney or private collection agent or agency contracting with the municipality under the provisions of this subsection shall give bond or other surety payable to the municipality in such amount as the governing authority of the municipality deems sufficient. Any private attorney with whom the municipality contracts under the provisions of this subsection must be a member in good standing of The Mississippi Bar. Any private collection agent or agency with whom the municipality contracts under the provisions of this subsection must meet all licensing requirements for doing business in the State of Mississippi. Neither the municipality nor any officer or employee of the municipality shall be liable, civilly or criminally, for any wrongful or unlawful act or omission of any person or business with whom the municipality has contracted under the provisions of this subsection. The Mississippi Department of Audit shall establish rules and regulations for use by municipalities in contracting with persons or businesses under the provisions of this subsection. If a municipality uses its own employees to collect any type of delinquent payment owed to the municipality, then from and after July 1, 2000, the municipality may charge an additional fee for collection of the delinquent payment provided the payment has been delinquent for ninety (90) days. The collection fee may not exceed twenty-five percent (25%) of the delinquent payment if the collection is made within this state and may not exceed fifty percent (50%) of the delinquent payment if the collection is made outside this state. In conducting collection of delinquent payments, the municipality may utilize credit cards or electronic fund transfers. The municipality may pay any service fees for the use of such methods of collection from the collection fee, but not from the delinquent payment. There shall be due to the municipality from any person whose delinquent payment is collected under a contract executed as provided in this subsection an amount, in addition to the delinquent payment, of not to exceed twenty-five percent (25%) of the delinquent payment for collections made within this

state, and not to exceed fifty percent (50%) of the delinquent payment for collections made outside of this state.

(7) In addition to such authority as is otherwise granted under this section, the governing authority of any municipality may expend funds necessary to maintain and repair, and to purchase liability insurance, tags and decals for, any personal property acquired under the Federal Excess Personal Property Program that is used by the local volunteer fire department.

(8) In addition to the authority to expend matching funds under Section 21-19-65, the governing authority of any municipality, in its discretion, may expend municipal funds to match any state, federal or private funding for any program administered by the State of Mississippi, the United States government or any nonprofit organization that is exempt under 26 USCS Section 501(c)(3) from paying federal income tax.

(9) The governing authority of any municipality that owns and operates a gas distribution system, as defined in Section 21-27-11(b), and the governing authority of any public natural gas district are authorized to contract for the purchase of the supply of natural gas for a term of up to ten (10) years with any public nonprofit corporation which is organized under the laws of this state or any other state.

(10) The governing authority of any municipality may perform and exercise any duty, responsibility or function, may enter into agreements and contracts, may provide and deliver any services or assistance, and may receive, expend and administer any grants, gifts, matching funds, loans or other monies, in accordance with and as may be authorized by any federal law, rule or regulation creating, establishing or providing for any program, activity or service. The provisions of this subsection shall not be construed as authorizing any municipality or the governing authority of such municipality to perform any function or activity that is specifically prohibited under the laws of this state or as granting any authority in addition to or in conflict with the provisions of any federal law, rule or regulation.

(11) (a) In addition to such authority as is otherwise granted under this section, the governing authority of a municipality, in its discretion, may sell, lease, donate or otherwise convey property to any person or legal entity without public notice, without having to advertise for and accept competitive bids and without appraisal, with or without

consideration, and on such terms and conditions as the parties may agree if the governing authority finds and determines, by resolution duly and lawfully adopted and spread upon its official minutes:

(i) The subject property is real property acquired by the municipality:

1. By reason of a tax sale;

2. Because the property was abandoned or blighted;

or

3. In a proceeding to satisfy a municipal lien against the property;

(ii) The subject property is blighted and is located in a blighted area;

(iii) The subject property is not needed for governmental or related purposes and is not to be used in the operation of the municipality;

(iv) That the sale of the property in the manner otherwise provided by law is not necessary or desirable for the financial welfare of the municipality; and

(v) That the use of the property for the purpose for which it is to be conveyed will promote and foster the development and improvement of the community in which it is located or the civic, social, educational, cultural, moral, economic or industrial welfare thereof; the purpose for which the property is conveyed shall be stated.

(b) Any deed or instrument of conveyance executed pursuant to the authority granted under this subsection shall contain a clause of reverter providing that title to the property will revert to the municipality if the person or entity to whom the property is conveyed does not fulfill the purpose for which the property was conveyed and satisfy all conditions imposed on the conveyance within two (2) years of the date of the conveyance.

(c) In any such deed or instrument of conveyance, the municipality shall retain all mineral rights that it owns, together with the right of ingress and egress to remove same.

(12) The governing authority of any municipality may enter into agreements and contracts with any housing authority, as defined in Section 43-33-1, to provide extra police protection

in exchange for the payment of compensation or a fee to the municipality. This subsection shall stand repealed from and after July 1, 2014.

(13) The powers conferred by this section shall be in addition and supplemental to the powers conferred by any other law, and nothing contained in this section shall be construed to prohibit, or to prescribe conditions concerning, any practice or practices authorized under any other law.

SECTION 4. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

House Bill 437

Description: State Fire Marshals; grant limited police powers to.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2013

Chapter Number: 360

History of Actions:

- 1 01/21 (H) Referred To Insurance
- 2 02/05 (H) Title Suff Do Pass Comm Sub
- 3 02/13 (H) Read the Third Time
- 4 02/14 (H) Committee Substitute Adopted
- 5 02/14 (H) Amended
- 6 02/14 (H) Passed As Amended {Vote}
- 7 02/20 (H) Transmitted To Senate
- 8 02/22 (S) Referred To Insurance; Accountability, Efficiency, Transparency
- 9 02/27 (S) DR - TSDP: IN To AC
- 10 03/05 (S) Title Suff Do Pass
- 11 03/07 (S) Passed {Vote}
- 12 03/08 (S) Transmitted To House
- 13 03/12 (S) Enrolled Bill Signed
- 14 03/12 (H) Enrolled Bill Signed
- 15 03/18 Approved by Governor

Amendments:

[H] Amendment No 1 (Cmte Sub)*Adopted* Voice Vote

Code Section: A 045-0011-0001, A 099-0003-0007

----- Additional Information -----

House Committee: Insurance

Senate Committee: Insurance, Accountability, Efficiency, Transparency

Principal Author: Chism

Title: AN ACT TO AMEND SECTION 45-11-1, MISSISSIPPI CODE OF 1972, TO PROVIDE ARREST AND LIMITED POLICE POWERS FOR THE STATE CHIEF DEPUTY FIRE MARSHAL AND DEPUTY FIRE MARSHALS; TO AMEND SECTION 99-3-7, MISSISSIPPI CODE OF 1972, IN CONFORMITY; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Insurance

By: Representative Chism

House Bill 437

(As Sent to Governor)

AN ACT TO AMEND SECTION 45-11-1, MISSISSIPPI CODE OF 1972, TO PROVIDE ARREST AND LIMITED POLICE POWERS FOR THE STATE CHIEF DEPUTY FIRE MARSHAL AND DEPUTY FIRE MARSHALS; TO AMEND SECTION 99-3-7, MISSISSIPPI CODE OF 1972, IN CONFORMITY; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 45-11-1, Mississippi Code of 1972, is amended as follows:

45-11-1. (1) The Commissioner of Insurance is by virtue of his office the State Fire Marshal and shall appoint the State Chief Deputy Fire Marshal who, along with his employees, shall be designated as a division of the Insurance Department. The State Chief Deputy Fire Marshal shall be a person qualified by experience and training and thoroughly knowledgeable in the areas of arson investigation and prevention, fire prevention, fire fighting and the training of firemen. The State Chief Deputy Fire Marshal shall serve at the will and pleasure of the Commissioner of Insurance.

(2) The State Chief Deputy Fire Marshal shall employ such deputy state fire marshals as are necessary and in accordance with availability of funds. Deputy fire marshals shall be deployed across the state in order to provide effective service to fire scenes.

(3) It shall be the duty of the State Chief Deputy Fire Marshal to investigate, by himself or his deputy, the origin of every fire occurring within the state to which his attention is called by the chief of the fire department or other law enforcement authority of any county or municipality. It shall also be his duty to investigate any case requested by any party in interest, whenever, in his judgment, there be sufficient evidence or circumstances indicating that such fire may be of incendiary origin. All county and municipal law enforcement authorities shall cooperate with the State Chief

Deputy Fire Marshal in such investigation. This section shall not be construed to impair the duty and power of county and municipal law enforcement authorities to investigate any fire occurring within his or their jurisdiction.

(4) (a) The State Chief Deputy Fire Marshal and deputy state fire marshals shall have the following powers:

(i) To arrest without warrant any person or persons committing or attempting to commit any misdemeanor or felony within their presence or view but only such violations of law or violations of regulations adopted pursuant to this chapter or Chapter 49, Title 75, Mississippi Code of 1972;

(ii) To pursue and so arrest any person committing an offense as described under subparagraph (i) of this paragraph to and at any place in the State of Mississippi where he may go or be;

(iii) To execute all warrants and search warrants related to, and investigate any violation of the laws and regulations related to this chapter and Chapter 49, Title 75, Mississippi Code of 1972, and prevent, arrest and apprehend such violators; and

(iv) To aid and assist any peace officer of this state or any other state if requested, or in manhunts or natural disasters within the state, and upon the consent of the State Fire Marshal, within the jurisdiction of the called event.

(b) Nothing herein shall be construed as granting the State Chief Deputy Fire Marshal or deputy state fire marshals general police powers.

(c) All deputy state fire marshals hired on or after July 1, 2013, shall be required to complete or have completed the Law Enforcement Officers Training Program and shall meet the standards of the program.

(* * * 5) The State Chief Deputy Fire Marshal shall maintain in his office a record of all fires investigated by him or his deputy, including evidence obtained as to the origin of each such fire.

(* * * 6) Such record shall at all times be subject to inspection by any party of interest in the fire loss; provided, however, that no record or report of an investigation shall be subject to inspection pending such investigation or while same is in progress, and if a report of an investigation contains

any evidence of arson or other felony, same shall not be subject to inspection by any person other than the district attorney and county attorney of the county in which such evidence indicates that arson or other felony may have been committed, except upon the written approval of such district attorney or the order of a court of competent jurisdiction. Provided that in cases where a person has been arrested for the crimes of arson, attempted arson, or any other felony, the defendant or his attorney shall have access to these records. Any physical evidence of arson or other felony shall be delivered to the custody of the sheriff of the county wherein such fire occurred.

(* * * 7) The State Chief Deputy Fire Marshal may appoint, with the consent of the Commissioner of Insurance, a State Chief Assistant Deputy Fire Marshal, who shall have power, during the chief deputy's absence or inability to act due to any cause, to perform any and all of the duties of the chief deputy. The chief assistant deputy shall serve at the will and pleasure of the Commissioner of Insurance.

SECTION 2. Section 99-3-7, Mississippi Code of 1972, is amended as follows:

99-3-7. (1) An officer or private person may arrest any person without warrant, for an indictable offense committed, or a breach of the peace threatened or attempted in his presence; or when a person has committed a felony, though not in his presence; or when a felony has been committed, and he has reasonable ground to suspect and believe the person proposed to be arrested to have committed it; or on a charge, made upon reasonable cause, of the commission of a felony by the party proposed to be arrested. And in all cases of arrests without warrant, the person making such arrest must inform the accused of the object and cause of the arrest, except when he is in the actual commission of the offense, or is arrested on pursuit.

(2) Any law enforcement officer may arrest any person on a misdemeanor charge without having a warrant in his possession when a warrant is in fact outstanding for that person's arrest and the officer has knowledge through official channels that the warrant is outstanding for that person's arrest. In all such cases, the officer making the arrest must inform such person at the time of the arrest the object and cause

therefor. If the person arrested so requests, the warrant shall be shown to him as soon as practicable.

(3) (a) Any law enforcement officer shall arrest a person with or without a warrant when he has probable cause to believe that the person has, within twenty-four (24) hours of such arrest, knowingly committed a misdemeanor which is an act of domestic violence or knowingly violated provisions of an ex parte protective order, protective order after hearing or court-approved consent agreement entered by a chancery, circuit, county, justice or municipal court pursuant to the Protection from Domestic Abuse Law, Sections 93-21-1 through 93-21-29, Mississippi Code of 1972, or a restraining order entered by a foreign court of competent jurisdiction to protect an applicant from domestic violence.

(b) If a law enforcement officer has probable cause to believe that two (2) or more persons committed a misdemeanor which is an act of domestic violence as defined herein, or if two (2) or more persons make complaints to the officer, the officer shall attempt to determine who was the principal aggressor. The term principal aggressor is defined as the party who poses the most serious ongoing threat, or who is the most significant, rather than the first, aggressor. The officer shall presume that arrest is not the appropriate response for the person or persons who were not the principal aggressor. If the officer affirmatively finds more than one (1) principal aggressor was involved, the officer shall document those findings.

(c) To determine who is the principal aggressor, the officer shall consider the following factors, although such consideration is not limited to these factors:

(i) Evidence from the persons involved in the domestic abuse;

(ii) The history of domestic abuse between the parties, the likelihood of future injury to each person, and the intent of the law to protect victims of domestic violence from continuing abuse;

(iii) Whether one (1) of the persons acted in self-defense; and

(iv) Evidence from witnesses of the domestic violence.

(d) A law enforcement officer shall not base the decision of whether to arrest on the consent or request of the victim.

(e) A law enforcement officer's determination regarding the existence of probable cause or the lack of probable cause shall not adversely affect the right of any party to independently seek appropriate remedies.

(4) (a) Any person authorized by a court of law to supervise or monitor a convicted offender who is under an intensive supervision program may arrest the offender when the offender is in violation of the terms or conditions of the intensive supervision program, without having a warrant, provided that the person making the arrest has been trained at the Law Enforcement Officers Training Academy established under Section 45-5-1 et seq., or at a course approved by the Board on Law Enforcement Officer Standards and Training.

(b) For the purposes of this subsection, the term "intensive supervision program" means an intensive supervision program of the Department of Corrections as described in Section 47-5-1001 et seq., or any similar program authorized by a court for offenders who are not under jurisdiction of the Department of Corrections.

(5) As used in subsection (3) of this section, the phrase "misdemeanor which is an act of domestic violence" shall mean one or more of the following acts between current or former spouses or a child of current or former spouses, persons living as spouses or who formerly lived as spouses or a child of persons living as spouses or who formerly lived as spouses, a parent, grandparent, child, grandchild or someone similarly situated to the defendant, persons who have a current or former dating relationship, or persons who have a biological or legally adopted child together:

(a) Simple domestic violence within the meaning of Section 97-3-7;

(b) Disturbing the family or public peace within the meaning of Section 97-35-9, 97-35-11, 97-35-13 or 97-35-15; or

(c) Stalking within the meaning of Section 97-3-107.

(6) Any arrest made pursuant to subsection (3) of this section shall be designated as domestic assault or domestic violence on both the arrest docket and the incident report.

Any officer investigating a complaint of a misdemeanor crime of domestic violence who finds probable cause that such an offense has occurred within the past twenty-four (24) hours shall file an affidavit on behalf of the victim(s) of the crime, regardless of whether an arrest is made within that time period. If the crime is reported or investigated outside of that twenty-four-hour period, the officer may file the affidavit on behalf of the victim. In the event the officer does not file an affidavit on behalf of the victim, the officer shall instruct the victim of the procedure for filing on his or her own behalf.

(7) A law enforcement officer shall not be held liable in any civil action for an arrest based on probable cause and in good faith pursuant to subsection (3) of this section, or failure, in good faith, to make an arrest pursuant to subsection (3) of this section.

(8) The authority for the State Chief Deputy Fire Marshal and deputy state fire marshals to make arrests shall be governed by the provisions of Section 45-11-1.

SECTION 3. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

House Bill 461

Description: Compact for education; repeal.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: Passage

Chapter Number: 417

History of Actions:

- | | | | |
|----|-------|-----|-----------------------|
| 1 | 01/21 | (H) | Referred To Education |
| 2 | 01/28 | (H) | Title Suff Do Pass |
| 3 | 02/06 | (H) | Passed {Vote} |
| 4 | 02/07 | (H) | Transmitted To Senate |
| 5 | 02/13 | (S) | Referred To Education |
| 6 | 02/26 | (S) | Title Suff Do Pass |
| 7 | 03/07 | (S) | Passed {Vote} |
| 8 | 03/08 | (S) | Transmitted To House |
| 9 | 03/12 | (H) | Enrolled Bill Signed |
| 10 | 03/12 | (S) | Enrolled Bill Signed |
| 11 | 03/20 | | Approved by Governor |

Code Section: RP 037-0135-0011, RP 037-0135-0013, RP 037-0135-0015

----- **Additional Information** -----

House Committee: Education

Senate Committee: Education

Principal Author: Barker

Title: AN ACT TO REPEAL SECTIONS 37-135-11, 37-135-13 AND 37-135-15, MISSISSIPPI CODE OF 1972, WHICH MAKE UP THE COMPACT FOR EDUCATION, REQUIRE THE FILING OF COPIES OF BYLAWS AND AMENDMENTS, AND ESTABLISH THE MISSISSIPPI EDUCATION COUNCIL; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Education

By: Representative Barker

House Bill 461

(As Sent to Governor)

AN ACT TO REPEAL SECTIONS 37-135-11, 37-135-13 AND 37-135-15, MISSISSIPPI CODE OF 1972, WHICH MAKE UP THE COMPACT FOR EDUCATION, REQUIRE THE FILING OF COPIES OF BYLAWS AND AMENDMENTS, AND ESTABLISH THE MISSISSIPPI EDUCATION COUNCIL; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Sections 37-135-11, 37-135-13 and 37-135-15, Mississippi Code of 1972, which make up the Compact for Education, require the filing of copies of bylaws and amendments, and establish the Mississippi Education Council, are repealed.

SECTION 2. This act shall take effect and be in force from and after its passage.

Mississippi Legislature

2013 Regular Session

House Bill 478

Description: MS Accountability and Transparency Act; require detailed description of expenditures of bond proceeds on website.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2013

Chapter Number: 418

History of Actions:

- | | | | |
|----|-------|-----|--|
| 1 | 01/21 | (H) | Referred To S.C. Accountblty/Efficiency/Transparency |
| 2 | 02/05 | (H) | Title Suff Do Pass Comm Sub |
| 3 | 02/07 | (H) | Committee Substitute Adopted |
| 4 | 02/07 | (H) | Passed {Vote} |
| 5 | 02/11 | (H) | Transmitted To Senate |
| 6 | 02/15 | (S) | Referred To Accountability, Efficiency, Transparency; Appropriations |
| 7 | 03/05 | (S) | DR - TSDP: AC To AP |
| 8 | 03/05 | (S) | Title Suff Do Pass |
| 9 | 03/11 | (S) | Passed {Vote} |
| 10 | 03/12 | (S) | Transmitted To House |
| 11 | 03/14 | (S) | Enrolled Bill Signed |
| 12 | 03/14 | (H) | Enrolled Bill Signed |
| 13 | 03/20 | | Approved by Governor |

Code Section: A 027-0104-0155, BF 027-0104-0153

----- Additional Information -----

House Committee: S.C. Accountblty/Efficiency/Transparency

Senate Committee: Accountability, Efficiency, Transparency, Appropriations

Principal Author: Gunn

Additional Authors: Bennett, Shirley, Scott, Crawford

Title: AN ACT TO AMEND SECTION 27-104-155, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT BEGINNING ON JULY 1, 2014, WHEN AN EXPENDITURE OF STATE FUNDS BY A STATE AGENCY INVOLVES THE EXPENDITURE OF BOND PROCEEDS, THE SEARCHABLE WEBSITE OPERATED UNDER THE MISSISSIPPI ACCOUNTABILITY AND TRANSPARENCY ACT MUST INCLUDE A CLEAR, DETAILED DESCRIPTION OF THE PURPOSE OF THE BONDS, A CURRENT STATUS REPORT ON THE PROJECT OR PROJECTS BEING FINANCED BY THE BONDS, AND A CURRENT STATUS REPORT ON THE PAYMENT OF THE PRINCIPAL AND INTEREST ON THE BONDS; TO BRING FORWARD SECTION 27-104-153, MISSISSIPPI CODE OF 1972, WHICH CONTAINS DEFINITIONS FOR THE MISSISSIPPI ACCOUNTABILITY AND TRANSPARENCY ACT, FOR THE PURPOSES OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: S.C. Accountblty/Efficiency/Transparency

By: Representatives Gunn, Bennett, Shirley, Scott, Crawford

House Bill 478

(As Sent to Governor)

AN ACT TO AMEND SECTION 27-104-155, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT BEGINNING ON JULY 1, 2014, WHEN AN EXPENDITURE OF STATE FUNDS BY A STATE AGENCY INVOLVES THE EXPENDITURE OF BOND PROCEEDS, THE SEARCHABLE WEBSITE OPERATED UNDER THE MISSISSIPPI ACCOUNTABILITY AND TRANSPARENCY ACT MUST INCLUDE A CLEAR, DETAILED DESCRIPTION OF THE PURPOSE OF THE BONDS, A CURRENT STATUS REPORT ON THE PROJECT OR PROJECTS BEING FINANCED BY THE BONDS, AND A CURRENT STATUS REPORT ON THE PAYMENT OF THE PRINCIPAL AND INTEREST ON THE BONDS; TO BRING FORWARD SECTION 27-104-153, MISSISSIPPI CODE OF 1972, WHICH CONTAINS DEFINITIONS FOR THE MISSISSIPPI ACCOUNTABILITY AND TRANSPARENCY ACT, FOR THE PURPOSES OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 27-104-155, Mississippi Code of 1972, is amended as follows:

[Through June 30, 2014, this section shall read as follows:]

27-104-155. (1) The Department of Finance and Administration shall develop and operate a searchable website that includes information on expenditures of state funds from all funding sources. The website shall have a unique and simplified website address, and the department shall require each agency that maintains a generally accessible Internet site or for which a generally accessible Internet site is maintained to include a link on the front page of the agency's Internet site to the searchable website required under this section.

(a) With regard to disbursement of funds, the website shall include, but not be limited to:

(i) The name and principal location of the entity or recipients of the funds, excluding release of information relating to an individual's place of residence, the identity of recipients of state or federal assistance payments, and

any other information deemed confidential by state or federal law relating to privacy rights;

(ii) The amount of state funds expended;

(iii) A descriptive purpose of the funding action or expenditure;

(iv) The funding source of the expenditure;

(v) The specific source of authority for the expenditure including, but not limited to, a grant, subgrant, contract, or the general discretion of the agency director, provided that if the authority is a grant, subgrant or contract, the website entry shall include a grant, subgrant or contract number or similar information that clearly identifies the specific source of authority;

(vi) The expending agency;

(vii) The type of transaction; and

(viii) Any other information deemed relevant by the Department of Finance and Administration.

(b) The searchable website must include access to an electronic summary of each grant, including amendments; subgrant, including amendments; contract, including amendments; and payment voucher that includes, wherever possible, a hyperlink to the actual document in a searchable PDF format, subject to the restrictions in paragraph (c) of this section. The Department of Finance and Administration may cooperate with other agencies to accomplish the requirements of this paragraph.

(c) Nothing in Sections 27-104-151 through 27-104-159 shall permit or require the disclosure of trade secrets or other proprietary information, including confidential vendor information, or any other information that is required to be confidential by state or federal law.

(d) The information available from the searchable website must be updated no later than fourteen (14) days after the receipt of data from an agency, and the Department of Finance and Administration shall require each agency to provide to the department access to all data that is required to be accessible from the searchable website within fourteen (14) days of each expenditure, grant award, including amendments; subgrant award, including amendments; or contract, including amendments; executed by the agency.

(e) The searchable website must include data for all fiscal years beginning with fiscal year 2010, and all data on the searchable website must remain accessible to the public for a minimum of ten (10) years.

(2) The Board of Trustees of State Institutions of Higher Learning shall create the IHL Accountability and Transparency website to include its executive office and the institutions of higher learning no later than July 1, 2012. This website shall:

(a) Provide access to existing financial reports, financial audits, budgets and other financial documents that are used to allocate, appropriate, spend and account for appropriated funds;

(b) Have a unique and simplified website address;

(c) Be directly accessible via a link from the main page of the Department of Finance and Administration website, as well as the IHL website and the main page of the website of each institution of higher learning;

(d) Include other links, features or functionality that will assist the public in obtaining and reviewing public financial information;

(e) Report expenditure information currently available within these enterprise resource planning (ERP) computer systems; and

(f) Design the reporting format using the existing capabilities of these ERP computer systems.

(3) The* * * Mississippi Community College Board shall create the Community and Junior Colleges Accountability and Transparency website to include its executive office and the community and junior colleges no later than July 1, 2012. This website shall:

(a) Provide access to existing financial reports, financial audits, budgets and other financial documents that are used to allocate, appropriate, spend and account for appropriated funds;

(b) Have a unique and simplified website address;

(c) Be directly accessible via a link from the main page of the Department of Finance and Administration website, as well as the* * * Mississippi Community College Board website

and the main page of the website of each community and junior college;

(d) Include other links, features or functionality that will assist the public in obtaining and reviewing public financial information;

(e) Report expenditure information currently available within the computer system of each community and junior college; and

(f) Design the reporting format using the existing capabilities of the computer system of each community and junior college.

[From and after July 1, 2014, this section shall read as follows:]

27-104-155. (1) The Department of Finance and Administration shall develop and operate a searchable website that includes information on expenditures of state funds from all funding sources. The website shall have a unique and simplified website address, and the department shall require each agency that maintains a generally accessible Internet site or for which a generally accessible Internet site is maintained to include a link on the front page of the agency's Internet site to the searchable website required under this section.

(a) With regard to disbursement of funds, the website shall include, but not be limited to:

(i) The name and principal location of the entity or recipients of the funds, excluding release of information relating to an individual's place of residence, the identity of recipients of state or federal assistance payments, and any other information deemed confidential by state or federal law relating to privacy rights;

(ii) The amount of state funds expended;

(iii) A descriptive purpose of the funding action or expenditure;

(iv) The funding source of the expenditure;

(v) The budget program or activity of the expenditure;

(vi) The specific source of authority and descriptive purpose of the expenditure, to include a link to the funding authorization document(s) in a searchable PDF form;

(vii) The specific source of authority for the expenditure including, but not limited to, a grant, subgrant, contract, or the general discretion of the agency director, provided that if the authority is a grant, subgrant or contract, the website entry shall include a grant, subgrant or contract number or similar information that clearly identifies the specific source of authority. The information required under this paragraph includes data relative to tax exemptions and credits;

(viii) The expending agency;

(ix) The type of transaction;

(x) The expected performance outcomes achieved for the funding action or expenditure;

(xi) Links to any state audit or report relating to the entity or recipient of funds or the budget program or activity or agency; and

(xii) Any other information deemed relevant by the Department of Finance and Administration.

(b) When the expenditure of state funds involves the expenditure of bond proceeds, the searchable website must include a clear, detailed description of the purpose of the bonds, a current status report on the project or projects being financed by the bonds, and a current status report on the payment of the principal and interest on the bonds.

(* * *_c) The searchable website must include access to an electronic summary of each grant, including amendments; subgrant, including amendments; contract, including amendments; and payment voucher that includes, wherever possible, a hyperlink to the actual document in a searchable PDF format, subject to the restrictions in paragraph* * *_d) of this section. The Department of Finance and Administration may cooperate with other agencies to accomplish the requirements of this paragraph.

(* * *_d) Nothing in Sections 27-104-151 through 27-104-159 shall permit or require the disclosure of trade secrets or other proprietary information, including confidential vendor information, or any other information that is required to be confidential by state or federal law.

(* * *_e) The information available from the searchable website must be updated no later than fourteen (14) days

after the receipt of data from an agency, and the Department of Finance and Administration shall require each agency to provide to the department access to all data that is required to be accessible from the searchable website within fourteen (14) days of each expenditure, grant award, including amendments; subgrant, including amendments; or contract, including amendments; executed by the agency.

(* * * f) The searchable website must include all information required by this section for all transactions that are initiated in fiscal year 2015 or later. In addition, all information that is included on the searchable website from the date of the inception of the website until July 1, 2014, must be maintained on the website according to the requirements of this section before July 1, 2014, and remain accessible for ten (10) years from the date it was originally made available. All data on the searchable website must remain accessible to the public for a minimum of ten (10) years.

(2) The Board of Trustees of State Institutions of Higher Learning shall create the IHL Accountability and Transparency website to include its executive office and the institutions of higher learning no later than July 1, 2012. This website shall:

(a) Provide access to existing financial reports, financial audits, budgets and other financial documents that are used to allocate, appropriate, spend and account for appropriated funds;

(b) Have a unique and simplified website address;

(c) Be directly accessible via a link from the main page of the Department of Finance and Administration website, as well as the IHL website and the main page of the website of each institution of higher learning;

(d) Include other links, features or functionality that will assist the public in obtaining and reviewing public financial information;

(e) Report expenditure information currently available within these enterprise resource planning (ERP) computer systems; and

(f) Design the reporting format using the existing capabilities of these ERP computer systems.

(3) The* * * Mississippi Community College Board shall create the Community and Junior Colleges Accountability and Transparency website to include its executive office and the community and junior colleges no later than July 1, 2012. This website shall:

(a) Provide access to existing financial reports, financial audits, budgets and other financial documents that are used to allocate, appropriate, spend and account for appropriated funds;

(b) Have a unique and simplified website address;

(c) Be directly accessible via a link from the main page of the Department of Finance and Administration website, as well as the* * * Mississippi Community College Board website and the main page of the website of each community and junior college;

(d) Include other links, features or functionality that will assist the public in obtaining and reviewing public financial information;

(e) Report expenditure information currently available within the computer system of each community and junior college; and

(f) Design the reporting format using the existing capabilities of the computer system of each community and junior college.

SECTION 2. Section 27-104-153, Mississippi Code of 1972, is brought forward as follows:

27-104-153. As used in Sections 27-104-151 through 27-104-159:

(a) "Searchable website" means an Internet site that:

(i) Allows the public to access information identified in Sections 27-104-151 through 27-104-159 without any fee or charge to the public for that access;

(ii) Provides keyword or other efficient search capability to support the public's ability to find, aggregate and display that information with reasonable ease by accessing a single website; and

(iii) Allows the public to programmatically search and access all data in a serialized machine readable format, such as XML, via a Web-services application programming interface.

(b) "Agency" means a state agency, department, institution, board, commission, council, office, bureau, division, committee or subcommittee of the state. The term "agency" includes individual agencies and programs as well as multiple agencies whenever programs and activities involve more than one (1) agency. The term "agency" includes all elective offices in the executive, legislative and judicial branches of state government. The term "agency" does not include counties or municipalities.

(c) "Entity" or "recipient" means a corporation, association, union, limited liability company, limited liability partnership, grantee, contractor, county, municipality or other local government entity, or any other legal business entity, including a nonprofit entity. The term "entity" or "recipient" does not include an individual recipient of state public assistance.

(d) "Expenditure of state funds" means the disbursement or transfer of any funds, from any source or funds, whether appropriated or nonappropriated, from any agency. The term "expenditure of state funds" includes the expenditures from bond proceeds.

(e) "Funding action" means the transfer of funds from a state agency to another entity for a specific purpose. These would include subgranting of funds for specific purposes or the funding through bonds or other authority specific projects and actions.

(f) "Funding source" means the state account against which an expenditure is recorded.

(g) "State audit or report" means any audit or report issued by the State Auditor, Joint Legislative Committee on Performance Evaluation and Expenditure Review (PEER) or an executive body relating to the entity or recipient of funds or to the budget program or activity or agency.

SECTION 3. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

House Bill 480

Description: State agencies and officials; require to regularly update information on their websites to ensure that it is current.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2013

Chapter Number: 369

History of Actions:

1	01/21	(H)	Referred To S.C. Accountblty/Efficiency/Transparency
2	01/24	(H)	Title Suff Do Pass
3	01/29	(H)	Passed {Vote}
4	01/30	(H)	Transmitted To Senate
5	02/15	(S)	Referred To Accountability, Efficiency, Transparency
6	02/28	(S)	Title Suff Do Pass
7	03/07	(S)	Passed {Vote}
8	03/08	(S)	Transmitted To House
9	03/12	(S)	Enrolled Bill Signed
10	03/12	(H)	Enrolled Bill Signed
11	03/18		Approved by Governor

----- **Additional Information** -----

House Committee: S.C. Accountblty/Efficiency/Transparency

Senate Committee: Accountability, Efficiency, Transparency

Principal Author: Gunn

Title: AN ACT TO REQUIRE STATE AGENCIES AND STATEWIDE ELECTED OFFICIALS THAT PROVIDE INFORMATION TO THE PUBLIC ABOUT THE AGENCY OR OFFICE ON A WEBSITE ON THE INTERNET TO REVIEW AND UPDATE THE INFORMATION ON THE WEBSITE ON A REGULAR BASIS TO

ENSURE THAT THE INFORMATION APPEARING ON THE WEBSITE IS CURRENT;
AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: S.C. Accountblty/Efficiency/Transparency

By: Representative Gunn

House Bill 480

(As Sent to Governor)

AN ACT TO REQUIRE STATE AGENCIES AND STATEWIDE ELECTED OFFICIALS THAT PROVIDE INFORMATION TO THE PUBLIC ABOUT THE AGENCY OR OFFICE ON A WEBSITE ON THE INTERNET TO REVIEW AND UPDATE THE INFORMATION ON THE WEBSITE ON A REGULAR BASIS TO ENSURE THAT THE INFORMATION APPEARING ON THE WEBSITE IS CURRENT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Each state agency and each statewide elected official that provides information to the public about the agency or office on a website on the Internet shall review and update the information on the website on a regular basis, not less frequently than once a month, to ensure that the information appearing on the website is current and that outdated information has been removed or placed in a separate section of archived information.

SECTION 2. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

House Bill 485

Description: MS Public Records Act; exempt weapon permit information.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Three/Fifths

Effective date: Passage

Chapter Number: 307

History of Actions:

1	01/21	(H)	Referred To Judiciary A
2	01/28	(H)	Title Suff Do Pass As Amended
3	01/29	(H)	Amended
4	01/29	(H)	Passed As Amended {Vote}
5	01/29	(H)	Immediate Release
6	01/30	(H)	Transmitted To Senate
7	02/15	(S)	Referred To Judiciary, Division A
8	02/26	(S)	Title Suff Do Pass As Amended
9	02/27	(S)	Amended
10	02/27	(S)	Passed As Amended {Vote}
11	02/27	(S)	Immediate Release
12	02/27	(S)	Returned For Concurrence
13	02/28	(H)	Concurred in Amend From Senate {Vote}
14	03/01	(H)	Enrolled Bill Signed
15	03/01	(S)	Enrolled Bill Signed
16	03/04		Approved by Governor

Amendments:

[H] Committee Amendment No 1 *Adopted* Voice Vote

[S] Committee Amendment No 1 *Adopted* Voice Vote

Amendment Report for House Bill No. 485

Code Section: A 045-0009-0101

----- Additional Information -----

House Committee: Judiciary A

Senate Committee: Judiciary, Division A

Principal Author: Baker

Additional Authors: Brown (20th), Arnold, Turner, Horne, Shirley, Staples, Carpenter, Byrd, Ladner, Kinkade, DeBar, Young

Title: AN ACT TO CREATE SECTION 25-61-11.1, MISSISSIPPI CODE OF 1972, TO EXEMPT INFORMATION REGARDING PERSONS WITH A WEAPON PERMIT FROM THE MISSISSIPPI PUBLIC RECORDS ACT OF 1983; TO AMEND SECTION 45-9-101, MISSISSIPPI CODE OF 1972, IN CONFORMITY; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Judiciary A

By: Representatives Baker, Brown (20th), Arnold, Turner, Horne, Shirley, Staples, Carpenter, Byrd, Ladner, Kinkade, DeBar, Young

House Bill 485
(As Sent to Governor)

AN ACT TO CREATE SECTION 25-61-11.1, MISSISSIPPI CODE OF 1972, TO EXEMPT INFORMATION REGARDING PERSONS WITH A WEAPON PERMIT FROM THE MISSISSIPPI PUBLIC RECORDS ACT OF 1983; TO AMEND SECTION 45-9-101, MISSISSIPPI CODE OF 1972, IN CONFORMITY; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. The following shall be codified as Section 25-61-11.1, Mississippi Code of 1972:

25-61-11.1. The name, home address, any telephone number or other private information of any person who possesses a weapon permit issued under Section 45-9-101 or Section 97-37-7 shall be exempt from the Mississippi Public Records Act of 1983.

SECTION 2. Section 45-9-101, Mississippi Code of 1972, is amended as follows:

45-9-101. (1) (a) The Department of Public Safety is authorized to issue licenses to carry stun guns, concealed pistols or revolvers to persons qualified as provided in this section. Such licenses shall be valid throughout the state for a period of five (5) years from the date of issuance. Any person possessing a valid license issued pursuant to this section may carry a stun gun, concealed pistol or concealed revolver.

(b) The licensee must carry the license, together with valid identification, at all times in which the licensee is carrying a stun gun, concealed pistol or revolver and must display both the license and proper identification upon demand by a law enforcement officer. A violation of the provisions of this paragraph (b) shall constitute a noncriminal violation with a penalty of Twenty-five Dollars (\$25.00) and shall be enforceable by summons.

2013 GENERAL LAWS OF MISSISSIPPI HB 485

(2) The Department of Public Safety shall issue a license if the applicant:

(a) Is a resident of the state and has been a resident for twelve (12) months or longer immediately preceding the filing of the application. However, this residency requirement may be waived, provided the applicant possesses a valid permit from another state, is active military personnel stationed in Mississippi, or is a retired law enforcement officer establishing residency in the state;

(b) Is twenty-one (21) years of age or older;

(c) Does not suffer from a physical infirmity which prevents the safe handling of a stun gun, pistol or revolver;

(d) Is not ineligible to possess a firearm by virtue of having been convicted of a felony in a court of this state, of any other state, or of the United States without having been pardoned for same;

(e) Does not chronically or habitually abuse controlled substances to the extent that his normal faculties are impaired. It shall be presumed that an applicant chronically and habitually uses controlled substances to the extent that his faculties are impaired if the applicant has been voluntarily or involuntarily committed to a treatment facility for the abuse of a controlled substance or been found guilty of a crime under the provisions of the Uniform Controlled Substances Law or similar laws of any other state or the United States relating to controlled substances within a three-year period immediately preceding the date on which the application is submitted;

(f) Does not chronically and habitually use alcoholic beverages to the extent that his normal faculties are impaired. It shall be presumed that an applicant chronically and habitually uses alcoholic beverages to the extent that his normal faculties are impaired if the applicant has been voluntarily or involuntarily committed as an alcoholic to a treatment facility or has been convicted of two (2) or more offenses related to the use of alcohol under the laws of this state or similar laws of any other state or the United States within the three-year period immediately preceding the date on which the application is submitted;

(g) Desires a legal means to carry a stun gun, concealed pistol or revolver to defend himself;

(h) Has not been adjudicated mentally incompetent, or has waited five (5) years from the date of his restoration to capacity by court order;

(i) Has not been voluntarily or involuntarily committed to a mental institution or mental health treatment facility unless he possesses a certificate from a psychiatrist licensed in this state that he has not suffered from disability for a period of five (5) years;

(j) Has not had adjudication of guilt withheld or imposition of sentence suspended on any felony unless three (3) years have elapsed since probation or any other conditions set by the court have been fulfilled;

(k) Is not a fugitive from justice; and

(l) Is not disqualified to possess or own a weapon based on federal law.

(3) The Department of Public Safety may deny a license if the applicant has been found guilty of one or more crimes of violence constituting a misdemeanor unless three (3) years have elapsed since probation or any other conditions set by the court have been fulfilled or expunction has occurred prior to the date on which the application is submitted, or may revoke a license if the licensee has been found guilty of one or more crimes of violence within the preceding three (3) years. The department shall, upon notification by a law enforcement agency or a court and subsequent written verification, suspend a license or the processing of an application for a license if the licensee or applicant is arrested or formally charged with a crime which would disqualify such person from having a license under this section, until final disposition of the case. The provisions of subsection (7) of this section shall apply to any suspension or revocation of a license pursuant to the provisions of this section.

(4) The application shall be completed, under oath, on a form promulgated by the Department of Public Safety and shall include only:

(a) The name, address, place and date of birth, race, sex and occupation of the applicant;

(b) The driver's license number or social security number of applicant;

(c) Any previous address of the applicant for the two (2) years preceding the date of the application;

(d) A statement that the applicant is in compliance with criteria contained within subsections (2) and (3) of this section;

(e) A statement that the applicant has been furnished a copy of this section and is knowledgeable of its provisions;

(f) A conspicuous warning that the application is executed under oath and that a knowingly false answer to any question, or the knowing submission of any false document by the applicant, subjects the applicant to criminal prosecution; and

(g) A statement that the applicant desires a legal means to carry a stun gun, concealed pistol or revolver to defend himself.

(5) The applicant shall submit only the following to the Department of Public Safety:

(a) A completed application as described in subsection (4) of this section;

(b) A full-face photograph of the applicant taken within the preceding thirty (30) days in which the head, including hair, in a size as determined by the Department of Public Safety;

(c) A nonrefundable license fee of One Hundred Dollars (\$100.00). Costs for processing the set of fingerprints as required in paragraph (d) of this subsection shall be borne by the applicant. Honorably retired law enforcement officers shall be exempt from the payment of the license fee;

(d) A full set of fingerprints of the applicant administered by the Department of Public Safety; and

(e) A waiver authorizing the Department of Public Safety access to any records concerning commitments of the applicant to any of the treatment facilities or institutions referred to in subsection (2) and permitting access to all the applicant's criminal records.

(6) (a) The Department of Public Safety, upon receipt of the items listed in subsection (5) of this section, shall forward the full set of fingerprints of the applicant to the appropriate agencies for state and federal processing.

(b) The Department of Public Safety shall forward a copy of the applicant's application to the sheriff of the applicant's county of residence and, if applicable, the police chief of the applicant's municipality of residence. The sheriff of the applicant's county of residence and, if applicable, the police chief of the applicant's municipality of residence may, at his discretion, participate in the process by submitting a voluntary report to the Department of Public Safety containing any readily discoverable prior information that he feels may be pertinent to the licensing of any applicant. The reporting shall be made within thirty (30) days after the date he receives the copy of the application. Upon receipt of a response from a sheriff or police chief, such sheriff or police chief shall be reimbursed at a rate set by the department.

(c) The Department of Public Safety shall, within forty-five (45) days after the date of receipt of the items listed in subsection (5) of this section:

(i) Issue the license;

(ii) Deny the application based solely on the ground that the applicant fails to qualify under the criteria listed in subsections (2) and (3) of this section. If the Department of Public Safety denies the application, it shall notify the applicant in writing, stating the ground for denial, and the denial shall be subject to the appeal process set forth in subsection (7); or

(iii) Notify the applicant that the department is unable to make a determination regarding the issuance or denial of a license within the forty-five-day period prescribed by this subsection, and provide an estimate of the amount of time the department will need to make the determination.

(d) In the event a legible set of fingerprints, as determined by the Department of Public Safety and the Federal Bureau of Investigation, cannot be obtained after a minimum of two (2) attempts, the Department of Public Safety shall determine eligibility based upon a name check by the Mississippi Highway Safety Patrol and a Federal Bureau of Investigation name check conducted by the Mississippi Highway Safety Patrol at the request of the Department of Public Safety.

(7) (a) If the Department of Public Safety denies the issuance of a license, or suspends or revokes a license,

the party aggrieved may appeal such denial, suspension or revocation to the Commissioner of Public Safety, or his authorized agent, within thirty (30) days after the aggrieved party receives written notice of such denial, suspension or revocation. The Commissioner of Public Safety, or his duly authorized agent, shall rule upon such appeal within thirty (30) days after the appeal is filed and failure to rule within this thirty-day period shall constitute sustaining such denial, suspension or revocation. Such review shall be conducted pursuant to such reasonable rules and regulations as the Commissioner of Public Safety may adopt.

(b) If the revocation, suspension or denial of issuance is sustained by the Commissioner of Public Safety, or his duly authorized agent pursuant to paragraph (a) of this subsection, the aggrieved party may file within ten (10) days after the rendition of such decision a petition in the circuit or county court of his residence for review of such decision. A hearing for review shall be held and shall proceed before the court without a jury upon the record made at the hearing before the Commissioner of Public Safety or his duly authorized agent. No such party shall be allowed to carry a stun gun, concealed pistol or revolver pursuant to the provisions of this section while any such appeal is pending.

(8) The Department of Public Safety shall maintain an automated listing of license holders and such information shall be available online, upon request, at all times, to all law enforcement agencies through the Mississippi Crime Information Center. However, the records of the department relating to applications for licenses to carry stun guns, concealed pistols or revolvers and records relating to license holders shall be exempt from the provisions of the Mississippi Public Records Act of 1983* * *, and shall be released only upon order of a court having proper jurisdiction over a petition for release of the record or records.

(9) Within thirty (30) days after the changing of a permanent address, or within thirty (30) days after having a license lost or destroyed, the licensee shall notify the Department of Public Safety in writing of such change or loss. Failure to notify the Department of Public Safety pursuant to the provisions of this subsection shall constitute a noncriminal violation with a penalty of Twenty-five Dollars (\$25.00) and shall be enforceable by a summons.

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(10) In the event that a stun gun, concealed pistol or revolver license is lost or destroyed, the person to whom the license was issued shall comply with the provisions of subsection (9) of this section and may obtain a duplicate, or substitute thereof, upon payment of Fifteen Dollars (\$15.00) to the Department of Public Safety, and furnishing a notarized statement to the department that such license has been lost or destroyed.

(11) A license issued under this section shall be revoked if the licensee becomes ineligible under the criteria set forth in subsection (2) of this section.

(12) (a) No less than ninety (90) days prior to the expiration date of the license, the Department of Public Safety shall mail to each licensee a written notice of the expiration and a renewal form prescribed by the department. The licensee must renew his license on or before the expiration date by filing with the department the renewal form, a notarized affidavit stating that the licensee remains qualified pursuant to the criteria specified in subsections (2) and (3) of this section, and a full set of fingerprints administered by the Department of Public Safety or the sheriff of the county of residence of the licensee.

The first renewal may be processed by mail and the subsequent renewal must be made in person. Thereafter every other renewal may be processed by mail to assure that the applicant must appear in person every ten (10) years for the purpose of obtaining a new photograph.

(i) Except as provided in this subsection, a renewal fee of Fifty Dollars (\$50.00) shall also be submitted along with costs for processing the fingerprints;

(ii) Honorably retired law enforcement officers shall be exempt from the renewal fee; and

(iii) The renewal fee for a Mississippi resident aged sixty-five (65) years of age or older shall be Twenty-five Dollars (\$25.00).

(b) The Department of Public Safety shall forward the full set of fingerprints of the applicant to the appropriate agencies for state and federal processing. The license shall be renewed upon receipt of the completed renewal application and appropriate payment of fees.

(c) A licensee who fails to file a renewal application on or before its expiration date must renew his license by paying a late fee of Fifteen Dollars (\$15.00). No license shall be renewed six (6) months or more after its expiration date, and such license shall be deemed to be permanently expired. A person whose license has been permanently expired may reapply for licensure; however, an application for licensure and fees pursuant to subsection (5) of this section must be submitted, and a background investigation shall be conducted pursuant to the provisions of this section.

(13) No license issued pursuant to this section shall authorize any person to carry a stun gun, concealed pistol or revolver into any place of nuisance as defined in Section 95-3-1, Mississippi Code of 1972; any police, sheriff or highway patrol station; any detention facility, prison or jail; any courthouse; any courtroom, except that nothing in this section shall preclude a judge from carrying a concealed weapon or determining who will carry a concealed weapon in his courtroom; any polling place; any meeting place of the governing body of any governmental entity; any meeting of the Legislature or a committee thereof; any school, college or professional athletic event not related to firearms; any portion of an establishment, licensed to dispense alcoholic beverages for consumption on the premises, that is primarily devoted to dispensing alcoholic beverages; any portion of an establishment in which beer or light wine is consumed on the premises, that is primarily devoted to such purpose; any elementary or secondary school facility; any junior college, community college, college or university facility unless for the purpose of participating in any authorized firearms-related activity; inside the passenger terminal of any airport, except that no person shall be prohibited from carrying any legal firearm into the terminal if the firearm is encased for shipment, for purposes of checking such firearm as baggage to be lawfully transported on any aircraft; any church or other place of worship; or any place where the carrying of firearms is prohibited by federal law. In addition to the places enumerated in this subsection, the carrying of a stun gun, concealed pistol or revolver may be disallowed in any place in the discretion of the person or entity exercising control over the physical location of such place by the placing of a written notice clearly readable at a distance of not less than ten (10) feet that the "carrying of a pistol or revolver

is prohibited." No license issued pursuant to this section shall authorize the participants in a parade or demonstration for which a permit is required to carry a stun gun, concealed pistol or revolver.

(14) A law enforcement officer as defined in Section 45-6-3, chiefs of police, sheriffs and persons licensed as professional bondsmen pursuant to Chapter 39, Title 83, Mississippi Code of 1972, shall be exempt from the licensing requirements of this section.

(15) Any person who knowingly submits a false answer to any question on an application for a license issued pursuant to this section, or who knowingly submits a false document when applying for a license issued pursuant to this section, shall, upon conviction, be guilty of a misdemeanor and shall be punished as provided in Section 99-19-31, Mississippi Code of 1972.

(16) All fees collected by the Department of Public Safety pursuant to this section shall be deposited into a special fund hereby created in the State Treasury and shall be used for implementation and administration of this section. After the close of each fiscal year, the balance in this fund shall be certified to the Legislature and then may be used by the Department of Public Safety as directed by the Legislature.

(17) All funds received by a sheriff or police chief pursuant to the provisions of this section shall be deposited into the general fund of the county or municipality, as appropriate, and shall be budgeted to the sheriff's office or police department as appropriate.

(18) Nothing in this section shall be construed to require or allow the registration, documentation or providing of serial numbers with regard to any stun gun or firearm. Further, nothing in this section shall be construed to allow the open and unconcealed carrying of any stun gun or a deadly weapon as described in Section 97-37-1, Mississippi Code of 1972.

(19) Any person holding a valid unrevoked and unexpired license to carry stun guns, concealed pistols or revolvers issued in another state shall have such license recognized by this state to carry stun guns, concealed pistols or revolvers. The Department of Public Safety is authorized to enter into a reciprocal agreement with another state if that state requires a written agreement in order to recognize licenses

to carry stun guns, concealed pistols or revolvers issued by this state.

(20) The provisions of this section shall be under the supervision of the Commissioner of Public Safety. The commissioner is authorized to promulgate reasonable rules and regulations to carry out the provisions of this section.

(21) For the purposes of this section, the term "stun gun" means a portable device or weapon from which an electric current, impulse, wave or beam may be directed, which current, impulse, wave or beam is designed to incapacitate temporarily, injure, momentarily stun, knock out, cause mental disorientation or paralyze.

SECTION 3. This act shall take effect and be in force from and after its passage.

Mississippi Legislature

2013 Regular Session

House Bill 488

Description: State-funded buildings; require that rating systems used for shall only use certain certificate credits for forest products.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2013

Chapter Number: 401

History of Actions:

1	01/21	(H)	Referred To Forestry
2	02/04	(H)	Title Suff Do Pass Comm Sub
3	02/07	(H)	Committee Substitute Adopted
4	02/07	(H)	Amended
5	02/07	(H)	Passed As Amended {Vote}
6	02/12	(H)	Transmitted To Senate
7	02/12	(S)	Referred To Forestry
8	02/28	(S)	Title Suff Do Pass
9	03/08	(S)	Passed {Vote}
10	03/11	(S)	Transmitted To House
11	03/12	(H)	Enrolled Bill Signed
12	03/12	(S)	Enrolled Bill Signed
13	03/20		Approved by Governor

Amendments:

[H] Amendment No 1 (Cmte Sub)*Adopted* Voice Vote

Code Section: A 031-0011-0035

----- Additional Information -----

House Committee: Forestry

Senate Committee: Forestry

Principal Author: Reynolds

Title: AN ACT TO AMEND SECTION 31-11-35, MISSISSIPPI CODE OF 1972, TO REQUIRE THAT RATING SYSTEMS USED FOR STATE-FUNDED BUILDINGS SHALL ONLY USE CERTIFICATE CREDITS FOR FOREST PRODUCTS CERTIFIED BY THE SUSTAINABLE FORESTRY INITIATIVE, FORESTRY STEWARDSHIP COUNCIL OR THE AMERICAN TREE FARM SYSTEM; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI HB 488

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Forestry

By: Representative Reynolds

House Bill 488

(As Sent to Governor)

AN ACT TO AMEND SECTION 31-11-35, MISSISSIPPI CODE OF 1972, TO REQUIRE THAT RATING SYSTEMS USED FOR STATE-FUNDED BUILDINGS SHALL ONLY USE CERTIFICATE CREDITS FOR FOREST PRODUCTS CERTIFIED BY THE SUSTAINABLE FORESTRY INITIATIVE, FORESTRY STEWARDSHIP COUNCIL OR THE AMERICAN TREE FARM SYSTEM; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 31-11-35, Mississippi Code of 1972, is amended as follows:

31-11-35. (1) The Department of Finance and Administration shall adopt rules and regulations which:

(a) Optimize the energy performance of state-funded buildings throughout the state;

(b) Increase the demand for building and construction materials, finishes, furnishings and other products made in or incorporating materials produced in Mississippi;

(c) Improve environmental quality in this state by decreasing the discharge of pollutants from state-funded buildings;

(d) Conserve energy and utilize local and renewable energy sources;

(e) Protect and restore this state's natural resources by avoiding development of inappropriate state-funded building sites;

(f) Reduce the burden on public water supply and treatment by reducing potable water consumption; and

(g) Encourage obtaining ENERGY STAR designation from the United States Environmental Protection Agency to further demonstrate a building project's energy independence.

(2) Each major facility project shall be designed and constructed to exceed the requirements of the energy

conservation guides adopted by the Department of Finance and Administration, Bureau of Building, Grounds and Real Property Management, by at least thirty percent (30%) where it is determined by the Department of Finance and Administration that such thirty percent (30%) efficiency is cost-effective.

(3) In order to achieve sustainable building standards, construction projects may utilize a nationally recognized high performance environmental building rating system; provided, however, that any such rating system that uses a material or product-based credit system which is disadvantageous to materials or products manufactured or produced in Mississippi shall not be utilized. Additionally, such rating systems shall not exclude certificate credits for forest products certified by the Sustainable Forestry Initiative, Forest Stewardship Council or the American Tree Farm System. The Department of Finance and Administration shall designate rating systems which meet these criteria and may establish its own rating system.

(4) A nationally certified commissioning authority professional shall certify that the major facility project's systems for heating, ventilation, air conditioning, energy conservation and water conservation are installed and working properly to ensure that each major facility project performs according to the major facility project's overall environmental design intent and operational objectives.

(5) For purposes of this section, a major facility project shall mean either:

(a) A state-funded new construction building project which is:

(i) From July 1 through December 31, 2009, the project shall be larger than twenty thousand (20,000) gross square feet;

(ii) From January 1, 2010, through December 31, 2010, the project shall be larger than fifteen thousand (15,000) gross square feet;

(iii) From January 1, 2011, through December 31, 2011, the project shall be larger than ten thousand (10,000) gross square feet; and

(iv) From January 1, 2012, and thereafter, the project shall be larger than five thousand (5,000) gross square feet;

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(b) A state-funded renovation project which involves more than fifty percent (50%) of the replacement value of the facility.

(6) A major facility project shall not mean a building, regardless of size, which does not have conditioned space as defined by Standard 90.1 of the American Society of Heating, Refrigerating, and Air Conditioning Engineers.

(7) For purposes of this section, a "major facility project" shall include, but not be limited to, the construction or renovation of buildings that are financed, in whole or in part, through the use of a community development block grant.

SECTION 2. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

House Bill 502

Description: Public purchasing; require state agency purchasing offices to have all purchasing officials certified.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Three/Fifths

Effective date: July 1, 2013

Chapter Number: 362

History of Actions:

1	01/21	(H) Referred To S.C. Accountblty/Efficiency/ Transparency
2	01/24	(H) Title Suff Do Pass
3	01/29	(H) Passed {Vote}
4	01/30	(H) Transmitted To Senate
5	02/15	(S) Referred To Accountability, Efficiency, Transparency
6	02/28	(S) Title Suff Do Pass
7	03/07	(S) Passed {Vote}
8	03/08	(S) Transmitted To House
9	03/12	(S) Enrolled Bill Signed
10	03/12	(H) Enrolled Bill Signed
11	03/18	Approved by Governor

Code Section: A 031-0007-0001, A 031-0007-0009

----- Additional Information -----

House Committee: S.C. Accountblty/Efficiency/Transparency

Senate Committee: Accountability, Efficiency, Transparency

Principal Author: Turner

Title: AN ACT TO AMEND SECTION 31-7-1, MISSISSIPPI CODE OF 1972, TO REVISE THE DEFINITION OF "CERTIFIED PURCHASING OFFICE" FOR THE PURPOSES OF THE PUBLIC PURCHASING LAWS TO MEAN A STATE AGENCY PURCHASING OFFICE IN WHICH 100% OF THE PURCHASING OFFICIALS HOLD

A CERTIFICATION FROM THE STATE OF MISSISSIPPI'S BASIC OR ADVANCED PURCHASING CERTIFICATION PROGRAM; TO DEFINE "CERTIFIED MISSISSIPPI PURCHASING AGENT" AND "CERTIFIED MISSISSIPPI PROCUREMENT MANAGER"; TO AMEND SECTION 31-7-9, MISSISSIPPI CODE OF 1972, TO DIRECT THE OFFICE OF PURCHASING, TRAVEL AND FLEET MANAGEMENT TO ADOPT REGULATIONS GOVERNING THE MISSISSIPPI PURCHASING CERTIFICATION PROGRAM, WHICH SHALL BE REQUIRED OF ALL PURCHASING OFFICIALS AT STATE AGENCIES; TO PROVIDE THAT THOSE REGULATIONS SHALL REQUIRE STATE AGENCY PURCHASING OFFICES DESIRING TO BE CLASSIFIED AS CERTIFIED PURCHASING OFFICES TO HAVE 100% PARTICIPATION AND COMPLETION BY PURCHASING OFFICIALS IN THE MISSISSIPPI PURCHASING CERTIFICATION PROGRAM; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI HB 502

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: S.C. Accountability/Efficiency/Transparency
By: Representative Turner

House Bill 502 (As Sent to Governor)

AN ACT TO AMEND SECTION 31-7-1, MISSISSIPPI CODE OF 1972, TO REVISE THE DEFINITION OF "CERTIFIED PURCHASING OFFICE" FOR THE PURPOSES OF THE PUBLIC PURCHASING LAWS TO MEAN A STATE AGENCY PURCHASING OFFICE IN WHICH 100% OF THE PURCHASING OFFICIALS HOLD A CERTIFICATION FROM THE STATE OF MISSISSIPPI'S BASIC OR ADVANCED PURCHASING CERTIFICATION PROGRAM; TO DEFINE "CERTIFIED MISSISSIPPI PURCHASING AGENT" AND "CERTIFIED MISSISSIPPI PROCUREMENT MANAGER"; TO AMEND SECTION 31-7-9, MISSISSIPPI CODE OF 1972, TO DIRECT THE OFFICE OF PURCHASING, TRAVEL AND FLEET MANAGEMENT TO ADOPT REGULATIONS GOVERNING THE MISSISSIPPI PURCHASING CERTIFICATION PROGRAM, WHICH SHALL BE REQUIRED OF ALL PURCHASING OFFICIALS AT STATE AGENCIES; TO PROVIDE THAT THOSE REGULATIONS SHALL REQUIRE STATE AGENCY PURCHASING OFFICES DESIRING TO BE CLASSIFIED AS CERTIFIED PURCHASING OFFICES TO HAVE 100% PARTICIPATION AND COMPLETION BY PURCHASING OFFICIALS IN THE MISSISSIPPI PURCHASING CERTIFICATION PROGRAM; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 31-7-1, Mississippi Code of 1972, is amended as follows:

31-7-1. The following terms are defined for the purposes of this chapter to have the following meanings:

(a) "Agency" means any state board, commission, committee, council, university, department or unit thereof created by the Constitution or statutes if such board, commission, committee, council, university, department, unit or the head thereof is authorized to appoint subordinate staff by the Constitution or statute, except a legislative or judicial board, commission, committee, council, department or unit thereof; and except the Mississippi State Port Authority.

(b) "Governing authority" means boards of supervisors, governing boards of all school districts, all boards of directors of public water supply districts, boards of directors of

master public water supply districts, municipal public utility commissions, governing authorities of all municipalities, port authorities, Mississippi State Port Authority, commissioners and boards of trustees of any public hospitals, boards of trustees of public library systems, district attorneys, school attendance officers and any political subdivision of the state supported wholly or in part by public funds of the state or political subdivisions thereof, including commissions, boards and agencies created or operated under the authority of any county or municipality of this state. The term "governing authority" shall not include economic development authorities supported in part by private funds, or commissions appointed to hold title to and oversee the development and management of lands and buildings which are donated by private individuals to the public for the use and benefit of the community and which are supported in part by private funds.

(c) "Purchasing agent" means any administrator, superintendent, purchase clerk or other chief officer so designated having general or special authority to negotiate for and make private contract for or purchase for any governing authority or agency.

(d) "Public funds" means and includes any appropriated funds, special funds, fees or any other emoluments received by an agency or governing authority.

(e) "Commodities" means and includes the various commodities, goods, merchandise, furniture, equipment, automotive equipment of every kind, and other personal property purchased by the agencies of the state and governing authorities, but not commodities purchased for resale or raw materials converted into products for resale.

(i) "Equipment" shall be construed to include: automobiles, trucks, tractors, office appliances and all other equipment of every kind and description.

(ii) "Furniture" shall be construed to include: desks, chairs, tables, seats, filing cabinets, bookcases and all other items of a similar nature as well as dormitory furniture, appliances, carpets and all other items of personal property generally referred to as home, office or school furniture.

(f) "Emergency" means any circumstances caused by fire, flood, explosion, storm, earthquake, epidemic, riot, insurrection or caused by any inherent defect due to defective

construction, or when the immediate preservation of order or of public health is necessary by reason of unforeseen emergency, or when the immediate restoration of a condition of usefulness of any public building, equipment, road or bridge appears advisable, or in the case of a public utility when there is a failure of any machine or other thing used and useful in the generation, production or distribution of electricity, water or natural gas, or in the transportation or treatment of sewage; or when the delay incident to obtaining competitive bids could cause adverse impact upon the governing authorities or agency, its employees or its citizens; or in the case of a public airport, when the delay incident to publishing an advertisement for competitive bids would endanger public safety in a specific (not general) manner, result in or perpetuate a specific breach of airport security, or prevent the airport from providing specific air transportation services.

(g) "Construction" means the process of building, altering, improving, renovating or demolishing a public structure, public building, or other public real property. It does not include routine operation, routine repair or regularly scheduled maintenance of existing public structures, public buildings or other public real property.

(h) "Purchase" means buying, renting, leasing or otherwise acquiring.

(i) "Certified purchasing office" means any purchasing office* * * in which fifty percent (50%) or more of the purchasing agents hold a certification from the Universal Public Purchasing Certification Council or other nationally recognized purchasing certification, and in which, in the case of a state agency purchasing office, in addition to the national certification, one hundred percent (100%) of the purchasing officials hold a certification from the State of Mississippi's Basic or Advanced Purchasing Certification Program.

(j) "Certified Mississippi Purchasing Agent" means a state agency purchasing official who holds a certification from the Mississippi Basic Purchasing Certification Program as established by the Office of Purchasing, Travel and Fleet Management.

(k) "Certified Mississippi Procurement Manager" means a state agency purchasing official who holds a certification from the Mississippi Advanced Purchasing Certification Program

as established by the Office of Purchasing, Travel and Fleet Management.

SECTION 2. Section 31-7-9, Mississippi Code of 1972, is amended as follows:

31-7-9. (1) (a) The Office of Purchasing, Travel and Fleet Management shall adopt purchasing regulations governing the purchase by any agency of any commodity or commodities and establishing standards and specifications for a commodity or commodities and the maximum fair prices of a commodity or commodities, subject to the approval of the Public Procurement Review Board. It shall have the power to amend, add to or eliminate purchasing regulations. The adoption of, amendment, addition to or elimination of purchasing regulations shall be based upon a determination by the Office of Purchasing, Travel and Fleet Management with the approval of the Public Procurement Review Board, that such action is reasonable and practicable and advantageous to promote efficiency and economy in the purchase of commodities by the agencies of the state. Upon the adoption of any purchasing regulation, or an amendment, addition or elimination therein, copies of same shall be furnished to the State Auditor and to all agencies affected thereby. Thereafter, and except as otherwise may be provided in subsection (2) of this section, no agency of the state shall purchase any commodities covered by existing purchasing regulations unless such commodities be in conformity with the standards and specifications set forth in the purchasing regulations and unless the price thereof does not exceed the maximum fair price established by such purchasing regulations. The* * * Office of Purchasing, Travel and Fleet Management shall furnish to any county or municipality or other local public agency of the state requesting same, copies of purchasing regulations adopted by the Office of Purchasing, Travel and Fleet Management and any amendments, changes or eliminations of same that may be made from time to time.

(b) The Office of Purchasing, Travel and Fleet Management may adopt purchasing regulations governing the use of credit cards, procurement cards and purchasing club membership cards to be used by state agencies, governing authorities of counties and municipalities, school districts and the Chickasawhay Natural Gas District. Use of the cards shall be in strict compliance with the regulations promulgated by the office. Any

2013 GENERAL LAWS OF MISSISSIPPI HB 502

amounts due on the cards shall incur interest charges as set forth in Section 31-7-305 and shall not be considered debt.

(c) Pursuant to the provision of Section 37-61-33(3), the Office of Purchasing, Travel and Fleet Management of the Department of Finance and Administration is authorized to issue procurement cards to all public school district classroom teachers and other necessary direct support personnel at the beginning of the school year for the purchase of instructional supplies using Educational Enhancement Funds. The cards will be issued in equal amounts per teacher determined by the total number of qualifying personnel and the then current state appropriation for classroom instructional supplies under the Education Enhancement Fund. All purchases shall be in accordance with state law and teachers are responsible for verification of capital asset requirements when pooling monies to purchase equipment. The cards will expire on a pre-determined date at the end of each school year. All unexpended amounts will be carried forward, to be combined with the following year's instructional supply fund allocation, and reallocated for the following year. The Department of Finance and Administration is authorized to loan any start-up funds at the beginning of the school year to fund this procurement system for instructional supplies with loan repayment being made from sales tax receipts earmarked for the Education Enhancement Fund.

(2) The Office of Purchasing, Travel and Fleet Management shall adopt, subject to the approval of the Public Procurement Review Board, purchasing regulations governing the purchase of unmarked vehicles to be used by the Bureau of Narcotics and Department of Public Safety in official investigations pursuant to Section 25-1-87. Such regulations shall ensure that purchases of such vehicles shall be at a fair price and shall take into consideration the peculiar needs of the Bureau of Narcotics and Department of Public Safety in undercover operations.

(3) The Office of Purchasing, Travel and Fleet Management shall adopt, subject to the approval of the Public Procurement Review Board, regulations governing the certification process for certified purchasing offices, including the Mississippi Purchasing Certification Program, which shall be required of all purchasing officials at state agencies. Such regulations shall require entities desiring to be classified as certified

purchasing offices to submit applications and applicable documents on an annual basis, and in the case of a state agency purchasing office, to have one hundred percent (100%) participation and completion by purchasing officials in the Mississippi Purchasing Certification Program, at which time the Office of Purchasing, Travel and Fleet Management may provide the governing entity with a certification valid for one (1) year from the date of issuance. The Office of Purchasing, Travel and Fleet Management shall set a fee in an amount that recovers its costs to administer the Mississippi Purchasing Certification Program, which shall be assessed to the participating state agencies.

SECTION 3. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

House Bill 525

Description: MS Industries for the Blind; State Personnel Board not required to approve salary of executive director of.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2013

Chapter Number: 336

History of Actions:

1	01/21	(H)	Referred To Fees and Salaries of Public Officers; Appropriations
2	01/24	(H)	DR - TSDP: FS To AP
3	01/31	(H)	DR - TSDP: AP To FS
4	01/31	(H)	Title Suff Do Pass
5	02/07	(H)	Passed {Vote}
6	02/08	(H)	Transmitted To Senate
7	02/15	(S)	Referred To Accountability, Efficiency, Transparency; Appropriations
8	02/28	(S)	DR - TSDP: AC To AP
9	03/05	(S)	Title Suff Do Pass
10	03/07	(S)	Passed {Vote}
11	03/08	(S)	Transmitted To House
12	03/12	(S)	Enrolled Bill Signed
13	03/12	(H)	Enrolled Bill Signed
14	03/14		Approved by Governor

Code Section: A 043-0003-0103

----- Additional Information -----

House Committee: Fees and Salaries of Public Officers, Appropriations

Senate Committee: Accountability, Efficiency, Transparency, Appropriations

Principal Author: Read

Title: AN ACT TO AMEND SECTION 43-3-103, MISSISSIPPI CODE OF 1972, TO DELETE THE REQUIREMENT THAT THE STATE PERSONNEL BOARD APPROVE THE SALARY SET BY THE BOARD OF DIRECTORS OF THE MISSISSIPPI INDUSTRIES FOR THE BLIND (MIB) FOR THE MIB EXECUTIVE DIRECTOR; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI HB 525

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Fees and Salaries of Public Officers; Appropriations

By: Representative Read

House Bill 525

(As Sent to Governor)

AN ACT TO AMEND SECTION 43-3-103, MISSISSIPPI CODE OF 1972, TO DELETE THE REQUIREMENT THAT THE STATE PERSONNEL BOARD APPROVE THE SALARY SET BY THE BOARD OF DIRECTORS OF THE MISSISSIPPI INDUSTRIES FOR THE BLIND (MIB) FOR THE MIB EXECUTIVE DIRECTOR; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 43-3-103, Mississippi Code of 1972, is amended as follows:

43-3-103. (1) From and after July 1, 1997, the MIB shall be governed by a board of directors hereby created, to consist of four (4) persons appointed by the Governor, and three (3) by the Lieutenant Governor, with the advice and consent of the Senate, each of whom shall be a qualified elector of the State of Mississippi. The members of the board of directors appointed by the Governor shall include the following:

(a) One (1) legally blind individual;

(b) One (1) educator with expertise in rehabilitation or the field of blindness;

(c) One (1) individual with at least five (5) years' actual experience in finance or a related field;

(d) One (1) individual with at least five (5) years' actual experience in manufacturing or a related field.

The members of the board of directors appointed by the Lieutenant Governor shall include the following:

(a) One (1) legally blind individual;

(b) One (1) individual with at least five (5) years' actual experience in marketing or a related field; and

(c) One (1) individual who is a licensed practicing attorney.

Initial appointments shall be made April 24, 1997. The Governor shall make initial appointments of two (2) members

for two (2) years, one (1) member for three (3) years, and one (1) member for four (4) years to be designated at the time of appointment. The Lieutenant Governor shall make initial appointments of one (1) member for two (2) years, one (1) member for three (3) years, and one (1) member for four (4) years to be designated at the time of appointment. Thereafter, the terms of the members shall be for four (4) years and until their successors are appointed and qualified. In the event of a vacancy during the term of office of an incumbent, the appointing authority shall fill such vacancy, for the unexpired portion of the term, by appointing an individual having the same prerequisite qualifications as required for the vacancy being filled.

(2) The board of directors shall organize by selecting annually from its members a chairman and a vice chairman, and may do all things necessary and convenient for carrying into effect the provisions of this chapter. Each member of the board shall receive a per diem as provided in Section 25-3-69, Mississippi Code of 1972, plus travel and reasonable and necessary expenses incidental to the attendance at each meeting as provided in Section 25-3-41, including mileage.

(3) The Lieutenant Governor may designate the Chairman of the Senate Committee on Public Health and Welfare and another member of the Senate and the Speaker of the House of Representatives may designate the Chairman of the House Committee on Public Health and* * * Human Services and another member of the House to attend any meeting of the Board of Directors of the MIB. The appointing authorities may designate alternate members from their respective houses to serve when the regular designees are unable to attend such meetings of the board. Such legislative designees shall have no jurisdiction or vote on any matter within the jurisdiction of the board. For attending meetings of the board, such legislators shall receive per diem and expenses which shall be paid from the contingent expense funds of their respective houses in the same amounts as provided for committee meetings when the Legislature is not in session; however, no per diem and expenses for attending meetings of the board will be paid while the Legislature is in session. No per diem and expenses will be paid except for attending meetings of the board without prior approval of the proper committee in their respective houses.

(4) It shall be the duty of the Board of Directors of MIB to:

(a) Appoint and employ an executive director who shall be the executive and administrative head of MIB and who shall serve at the pleasure of the board of directors. The Board of Directors of MIB shall set the compensation of the executive director* * *.

(b) Make and publish policies, rules and regulations, not inconsistent with the terms of this chapter, as may be necessary for the efficient administration and operation of MIB.

(c) Adopt and publish rules and regulations, in its discretion, to establish a policy of sick leave with pay and personal leave with pay for MIB employees and to require that MIB offices be opened and staffed on legal holidays as determined necessary by the board of directors.

(5) There is created a revolving fund in the State Treasury, which shall be used by the Mississippi Industries for the Blind for the purpose of taking advantage of contractual opportunities that would not be available to MIB without those funds and for the purpose of meeting the obligations of those types of contracts. The fund shall consist of monies that are specifically made available by the Legislature for the purpose of the fund. MIB shall not be authorized to expend any monies in the fund until it has received the prior written approval of the Executive Director of the Department of Finance and Administration and the State Treasurer. MIB shall repay to the fund all monies that it expends from the fund, which monies then may be used by MIB for future contractual opportunities and obligations. Monies in the fund at the end of a fiscal year shall not lapse into the State General Fund, and all interest earned on monies in the fund shall be credited to the fund.

* * *

SECTION 2. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

House Bill 533

Description: Election contest; provide procedure for candidates for office of election commissioner.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: VRA

Chapter Number: 406

History of Actions:

1	01/21	(H)	Referred To Apportionment and Elections
2	01/31	(H)	Title Suff Do Pass
3	02/13	(H)	Tabled Subject To Call
4	02/14	(H)	Passed {Vote}
5	02/15	(H)	Transmitted To Senate
6	02/19	(S)	Referred To Elections
7	02/28	(S)	Title Suff Do Pass
8	03/08	(S)	Passed {Vote}
9	03/11	(S)	Transmitted To House
10	03/12	(H)	Enrolled Bill Signed
11	03/12	(S)	Enrolled Bill Signed
12	03/20		Approved by Governor

Code Section: A 023-0015-0963

----- Additional Information -----

House Committee: Apportionment and Elections

Senate Committee: Elections

Principal Author: Denny

Title: AN ACT TO AMEND SECTION 23-15-963, MISSISSIPPI CODE OF 1972, TO PROVIDE THE PROPER LOCATION TO FILE AN ELECTION CONTEST FOR ANY PERSON DESIRING TO CONTEST THE ELECTION OF A CANDIDATE FOR COUNTY ELECTION COMMISSIONER OR A CANDIDATE FOR ANY MUNICIPAL OFFICE; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI HB 533

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Apportionment and Elections

By: Representative Denny

House Bill 533

(As Sent to Governor)

AN ACT TO AMEND SECTION 23-15-963, MISSISSIPPI CODE OF 1972, TO PROVIDE THE PROPER LOCATION TO FILE AN ELECTION CONTEST FOR ANY PERSON DESIRING TO CONTEST THE ELECTION OF A CANDIDATE FOR COUNTY ELECTION COMMISSIONER OR A CANDIDATE FOR ANY MUNICIPAL OFFICE; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 23-15-963, Mississippi Code of 1972, is amended as follows:

23-15-963. (1) Any person desiring to contest the qualifications of another person who has qualified pursuant to the provisions of Section 23-15-359, Mississippi Code of 1972, as a candidate for any office elected at a general election, shall file a petition specifically setting forth the grounds of the challenge not later than thirty-one (31) days after the date of the first primary election set forth in Section 23-15-191, Mississippi Code of 1972. Such petition shall be filed with the same body with whom the candidate in question qualified pursuant to Section 23-15-359, Mississippi Code of 1972.

(2) Any person desiring to contest the qualifications of another person who has qualified pursuant to the provisions of Section 23-15-213, Mississippi Code of 1972, as a candidate for county election commissioner elected at a general election, shall file a petition specifically setting forth the grounds of the challenge no later than sixty (60) days prior to the general election. Such petition shall be filed with the county board of supervisors, being the same body with whom the candidate in question qualified pursuant to Section 23-15-213, Mississippi Code of 1972.

(3) Any person desiring to contest the qualifications of another person who has qualified pursuant to the provisions of Section 23-15-361, Mississippi Code of 1972, as a candidate for municipal office elected on the date designated by law for

regular municipal elections, shall file a petition specifically setting forth the grounds of the challenge no later than thirty-one (31) days after the date of the first primary election set forth in Section 23-15-309, Mississippi Code of 1972. Such petition shall be filed with the municipal commissioners of election, being the same body with whom the candidate in question qualified pursuant to Section 23-15-361, Mississippi Code of 1972.

(* * * 4) Within ten (10) days of receipt of the petition described* * * in subsections (1), (2) and (3) of this section, the appropriate election officials shall meet and rule upon the petition. At least two (2) days before the hearing to consider the petition, the appropriate election officials shall give notice to both the petitioner and the contested candidate of the time and place of the hearing on the petition. Each party shall be given an opportunity to be heard at such meeting and present evidence in support of his position.

(* * * 5) If the appropriate election officials fail to rule upon the petition within the time required above, such inaction shall be interpreted as a denial of the request for relief contained in the petition.

(* * * 6) Any party aggrieved by the action or inaction of the appropriate election officials may file a petition for judicial review to the circuit court of the county in which the election officials whose decision is being reviewed sits. Such petition must be filed no later than fifteen (15) days after the date the petition was originally filed with the appropriate election officials. Such person filing for judicial review shall give a cost bond in the sum of Three Hundred Dollars (\$300.00) with two (2) or more sufficient sureties conditioned to pay all costs in case his petition be dismissed, and an additional bond may be required, by the court, if necessary, at any subsequent stage of the proceedings.

(* * * 7) The circuit court with whom such a petition for judicial review has been filed shall at the earliest possible date set the matter for hearing. Notice shall be given the interested parties of the time set for hearing by the circuit clerk. The hearing before the circuit court shall be de novo. The matter shall be tried to the circuit judge, without a jury. After hearing the evidence, the circuit judge shall determine whether the candidate whose qualifications have been challenged is legally qualified to have his name

placed upon the ballot in question. The circuit judge may, upon disqualification of any such candidate, order that such candidate shall bear the court costs of the proceedings.

(* * * 8) Within three (3) days after judgment is rendered by the circuit court, the contestant or contestee, or both, may file an appeal in the Supreme Court upon giving a cost bond in the sum of Three Hundred Dollars (\$300.00), together with a bill of exceptions which shall state the point or points of law at issue with a sufficient synopsis of the facts to fully disclose the bearing and relevancy of such points of law. The bill of exceptions shall be signed by the trial judge, or in case of his absence, refusal or disability, by two (2) disinterested attorneys, as is provided by law in other cases of bills of exception. The filing of such appeals shall automatically suspend the decision of the circuit court and the appropriate election officials are entitled to proceed based upon their decision unless and until the Supreme Court, in its discretion, stays further proceedings in the matter. The appeal shall be immediately docketed in the Supreme Court and referred to the court en banc upon briefs without oral argument unless the court shall call for oral argument, and shall be decided at the earliest possible date, as a preference case over all others. The Supreme Court shall have the authority to grant such relief as is appropriate under the circumstances.

(* * * 9) The procedure set forth above shall be the sole and only manner in which the qualifications of a candidate seeking public office who qualified pursuant to the provisions of * * * Sections 23-15-359, 23-15-213 and 23-15-361, Mississippi Code of 1972, may be challenged prior to the time of his election. After any such person has been elected to public office, the election may be challenged as otherwise provided by law. After any person assumes an elective office, his qualifications to hold that office may be contested as otherwise provided by law.

SECTION 2. The Attorney General of the State of Mississippi shall submit this act, immediately upon approval by the Governor, or upon approval by the Legislature subsequent to a veto, to the Attorney General of the United States or to the United States District Court for the District of Columbia in accordance with the provisions of the Voting Rights Act of 1965, as amended and extended.

SECTION 3. This act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended.

Mississippi Legislature

2013 Regular Session

House Bill 534

Description: Insurance; revise various laws regarding.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: ** See Text

Chapter Number: 416

History of Actions:

- 1 01/21 (H) Referred To Insurance
- 2 01/22 (H) Title Suff Do Pass Comm Sub
- 3 01/24 (H) Committee Substitute Adopted
- 4 01/24 (H) Passed {Vote}
- 5 01/24 (H) Motion to Reconsider Entered (Brown
(66th), Chism, Buck (5th))
- 6 01/28 (H) Motion to Reconsider Tabled
- 7 01/29 (H) Transmitted To Senate
- 8 02/13 (S) Referred To Insurance
- 9 02/27 (S) Title Suff Do Pass
- 10 03/07 (S) Passed {Vote}
- 11 03/08 (S) Transmitted To House
- 12 03/14 (S) Enrolled Bill Signed
- 13 03/14 (H) Enrolled Bill Signed
- 14 03/20 Approved by Governor

Code Section: A 083-0005-0205, A 083-0005-0209, A 083-0005-0401, A 083-0005-0403, A 083-0005-0405, A 083-0005-0417, A 083-0005-0427, A 083-0006-0001, A 083-0006-0005, A 083-0006-0017, A 083-0006-0021, A 083-0006-0024, A 083-0006-0027, A 083-0006-0029

----- Additional Information -----

House Committee: Insurance

Senate Committee: Insurance

Principal Author: Chism

Title: AN ACT TO AMEND SECTION 83-5-205, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE COMMISSIONER OF INSURANCE TO CONDUCT FINANCIAL AND MARKET ANALYSIS REVIEW OF ALL INSURERS AUTHORIZED TO DO BUSINESS IN THIS STATE; TO AMEND SECTION 83-5-209, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE CONFIDENTIALITY OF ANCILLARY INFORMATION RECEIVED BY THE COMMISSIONER OF INSURANCE DURING AN EXAMINATION, FINANCIAL REVIEW AND MARKET ANALYSIS REVIEW; TO AMEND SECTIONS 83-5-401 THROUGH 83-5-405, 83-5-417 AND 83-5-427, MISSISSIPPI CODE OF 1972, TO INCLUDE HEALTH ORGANIZATION INSURERS UNDER THE RISK BASED CAPITAL LAWS; TO AMEND SECTION 83-6-1, MISSISSIPPI CODE OF 1972, TO DEFINE THE TERM “ENTERPRISE RISK” AS USED IN THE INSURANCE HOLDING COMPANY REGISTRATION ACT; TO AMEND SECTION 83-6-5, MISSISSIPPI CODE OF 1972, TO REVISE THE FORM AND CONTENTS OF THE REGISTRATION STATEMENT FILED WITH THE COMMISSIONER OF INSURANCE; TO AMEND SECTION 83-6-17, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A DISCLAIMER OF AFFILIATION SHALL BE DEEMED TO HAVE BEEN GRANTED UNLESS THE COMMISSIONER NOTIFIES THE FILING PARTY THE DISCLAIMER IS DISALLOWED; TO AMEND SECTION 83-6-21, MISSISSIPPI CODE OF 1972, TO REVISE THE NOTICE REQUIREMENTS TO THE COMMISSIONER OF INSURANCE OF CERTAIN INTENDED TRANSACTIONS WITHIN THE HOLDING COMPANY SYSTEM; TO AMEND SECTION 83-6-24, MISSISSIPPI CODE OF 1972, TO REVISE THE FILING REQUIREMENTS OF PERSONS SEEKING TO DIVEST OR ACQUIRE A CONTROLLING INTEREST IN A DOMESTIC INSURER; TO CREATE NEW SECTION 83-6-26, MISSISSIPPI CODE OF 1972, TO PROVIDE CERTAIN MANAGEMENT REQUIREMENTS OF DOMESTIC INSURERS SUBJECT TO REGISTRATION; TO AMEND SECTION 83-6-27, MISSISSIPPI CODE OF 1972, TO MAKE A TECHNICAL CORRECTION TO REFERENCE THE CHAPTER OF LAWS; TO AMEND SECTION 83-6-29, MISSISSIPPI CODE OF 1972, TO REVISE THE CONFIDENTIAL TREATMENT OF DOCUMENTS, MATERIALS OR OTHER INFORMATION IN THE POSSESSION OR CONTROL OF THE DEPARTMENT OF INSURANCE THAT ARE OBTAINED BY OR DISCLOSED TO THE COMMISSIONER OR ANY OTHER PERSON DURING CERTAIN EXAMINATIONS OR INVESTIGATIONS; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI HB 534

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Insurance

By: Representative Chism

House Bill 534

(As Sent to Governor)

AN ACT TO AMEND SECTION 83-5-205, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE COMMISSIONER OF INSURANCE TO CONDUCT FINANCIAL AND MARKET ANALYSIS REVIEW OF ALL INSURERS AUTHORIZED TO DO BUSINESS IN THIS STATE; TO AMEND SECTION 83-5-209, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE CONFIDENTIALITY OF ANCILLARY INFORMATION RECEIVED BY THE COMMISSIONER OF INSURANCE DURING AN EXAMINATION, FINANCIAL REVIEW AND MARKET ANALYSIS REVIEW; TO AMEND SECTIONS 83-5-401 THROUGH 83-5-405, 83-5-417 AND 83-5-427, MISSISSIPPI CODE OF 1972, TO INCLUDE HEALTH ORGANIZATION INSURERS UNDER THE RISK BASED CAPITAL LAWS; TO AMEND SECTION 83-6-1, MISSISSIPPI CODE OF 1972, TO DEFINE THE TERM "ENTERPRISE RISK" AS USED IN THE INSURANCE HOLDING COMPANY REGISTRATION ACT; TO AMEND SECTION 83-6-5, MISSISSIPPI CODE OF 1972, TO REVISE THE FORM AND CONTENTS OF THE REGISTRATION STATEMENT FILED WITH THE COMMISSIONER OF INSURANCE; TO AMEND SECTION 83-6-17, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A DISCLAIMER OF AFFILIATION SHALL BE DEEMED TO HAVE BEEN GRANTED UNLESS THE COMMISSIONER NOTIFIES THE FILING PARTY THE DISCLAIMER IS DISALLOWED; TO AMEND SECTION 83-6-21, MISSISSIPPI CODE OF 1972, TO REVISE THE NOTICE REQUIREMENTS TO THE COMMISSIONER OF INSURANCE OF CERTAIN INTENDED TRANSACTIONS WITHIN THE HOLDING COMPANY SYSTEM; TO AMEND SECTION 83-6-24, MISSISSIPPI CODE OF 1972, TO REVISE THE FILING REQUIREMENTS OF PERSONS SEEKING TO DIVEST OR ACQUIRE A CONTROLLING INTEREST IN A DOMESTIC INSURER; TO CREATE NEW SECTION 83-6-26, MISSISSIPPI CODE OF 1972, TO PROVIDE CERTAIN MANAGEMENT REQUIREMENTS OF DOMESTIC INSURERS SUBJECT TO REGISTRATION; TO AMEND SECTION 83-6-27, MISSISSIPPI CODE OF 1972, TO MAKE A TECHNICAL CORRECTION TO REFERENCE THE CHAPTER OF LAWS; TO AMEND SECTION 83-6-29, MISSISSIPPI CODE OF 1972, TO REVISE THE CONFIDENTIAL TREATMENT OF DOCUMENTS, MATERIALS OR OTHER INFORMATION IN THE POSSESSION OR CONTROL OF THE DEPARTMENT OF INSURANCE THAT ARE OBTAINED BY OR DISCLOSED TO THE COMMISSIONER OR ANY OTHER

PERSON DURING CERTAIN EXAMINATIONS OR INVESTIGATIONS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 83-5-205, Mississippi Code of 1972, is amended as follows:

83-5-205. (1) The commissioner or any of his examiners may conduct an examination under Sections 83-5-201 through 83-5-217 of any company as often as the commissioner, in his or her sole discretion, deems appropriate but, at a minimum, shall conduct an examination of every insurer licensed in this state not less frequently than once every five (5) years. In scheduling and determining the nature, scope and frequency of the examinations, the commissioner shall consider such matters as the results of financial statement analyses and ratios, changes in management or ownership, actuarial opinions, reports of independent certified public accountants and other criteria as set forth in the Examiners' Handbook adopted by the National Association of Insurance Commissioners and in effect when the commissioner exercises discretion under this section.

(2) For purposes of completing an examination of any company under Sections 83-5-201 through 83-5-217, the commissioner may examine or investigate any person, or the business of any person, insofar as such examination or investigation, in the sole discretion of the commissioner, is necessary or material to the examination of the company.

(3) In lieu of an examination under Sections 83-5-201 through 83-5-217 of any foreign or alien insurer licensed in this state, the commissioner may accept an examination report on the company as prepared by the insurance department for the company's state of domicile or port-of-entry state until January 1, 1994. Thereafter, such reports may only be accepted if (a) the insurance department was at the time of the examination accredited under the National Association of Insurance Commissioners' Financial Regulation Standards and Accreditation Program; or (b) the examination is performed under the supervision of an accredited insurance department or with the participation of one or more examiners who are employed by such an accredited state insurance department and who, after a review of the examination work papers and report, state under oath that the examination was performed in a

manner consistent with the standards and procedures required by their insurance department.

(4) In addition to those examinations performed by the commissioner pursuant to subsection (1) of this section, the commissioner shall conduct financial and market analysis review of all insurers authorized to do business in this state and may conduct regulatory review of entities regulated by the department. The reviews may include the annual statement and the market conduct annual statement of the insurer or regulated entity reviewed, company financial reports rendered pursuant to good and acceptable accounting practices, results of insurance solvency standards testing as performed by the National Association of Insurance Commissioners, results of prior examinations and office reviews, management changes, consumer complaints, and such other relevant information as from time to time may be required by the commissioner.

(5) In lieu of conducting a financial or market analysis under this section of any foreign or alien insurer licensed in this state, the commissioner may rely upon the financial or market analysis conducted by the insurance department of the company's state of domicile or port-of-entry accredited under the National Association of Insurance Commissioners' Financial Regulation Standards and Accreditation Program.

(6) Every insurer or regulated entity shall produce and make freely accessible to the commissioner the accounts, records, documents and files in its possession or control. Failure by an insurer or regulated entity to supply information requested by the department during a course of financial or market analysis may subject the insurer or regulated entity to revocation or suspension of its license, or, in lieu thereof, a fine not to exceed Ten Thousand Dollars (\$10,000.00) per occurrence.

SECTION 2. Section 83-5-209, Mississippi Code of 1972, is amended as follows:

83-5-209. (1) All examination reports shall be comprised of only facts appearing upon the books, records or other documents of the company, its agents or other persons examined, or as ascertained from the testimony of its officers or agents or other persons examined concerning its affairs and such conclusions and recommendations as the examiners find reasonably warranted from the facts.

(2) No later than sixty (60) days following completion of the examination, the examiner in charge shall file with the department a verified written report of examination under oath. Upon receipt of the verified report, the department shall transmit the report to the company examined, together with a notice which shall afford the company examined a reasonable opportunity of not more than thirty (30) days to make a written submission or rebuttal with respect to any matters contained in the examination report.

(3) Within thirty (30) days of the end of the period allowed for the receipt of written submissions or rebuttals, the commissioner shall fully consider and review the report, together with any written submissions or rebuttals and any relevant portions of examiner work papers and enter an order:

(a) Adopting the examination report as filed, or with modification or corrections. If the examination report reveals that the company is operating in violation of any law, regulation or prior order of the commissioner, the commissioner may order the company to take any action the commissioner considers necessary and appropriate to cure such violation; or

(b) Rejecting the examination report with directions to the examiners to reopen the examination for purposes of obtaining additional data, documentation or information and refiling in accordance with subsections (1) and (2) of this section; or

(c) Calling for an investigatory hearing with no less than twenty (20) days' notice to the company for purposes of obtaining additional documentation, data, information and testimony.

(4) All orders entered in accordance with subsection (3) (a) of this section shall be accompanied by findings and conclusions resulting from the commissioner's consideration and review of the examination report, relevant examiner work papers, and any written submissions or rebuttals. Any such order shall be considered a final administrative decision and may be appealed under the Mississippi Administrative Procedures Act and shall be served upon the company by certified mail, together with a copy of the adopted examination report. Within thirty (30) days of the issuance of the adopted report, the company shall file affidavits executed by each of its directors stating under oath that they have received a copy of the adopted report and related orders.

(5) Any hearing conducted under subsection (3)(c) of this section by the commissioner or authorized representative shall be conducted as a nonadversarial confidential investigatory proceeding as necessary for the resolution of any inconsistencies, discrepancies or disputed issues apparent upon the face of the filed examination report or raised by or as a result of the commissioner's review of relevant work papers or by the written submission or rebuttal of the company. Within twenty (20) days of the conclusion of any such hearing, the commissioner shall enter an order in accordance with subsection (3)(a) of this section.

(a) The commissioner shall not appoint an examiner as an authorized representative to conduct the hearing. The hearing shall proceed expeditiously with discovery by the company limited to examiner work papers which tend to substantiate any assertions set forth in any written submission or rebuttal. The commissioner or his representative may issue subpoenas for the attendance of any witnesses or the production of any documents deemed relevant to the investigation whether under the control of the department, the company or other persons. The documents produced shall be included in the record, and testimony taken by the commissioner or his representative shall be under oath and preserved for the record.

Nothing contained in this section shall require the department to disclose any information or records which would indicate or show the existence or content of any investigation or activity of a criminal justice agency.

(b) The hearing shall proceed with the commissioner or his representative posing questions to the persons subpoenaed. Thereafter, the company and the department may present testimony relevant to the investigation. Cross-examination shall be conducted only by the commissioner or his representative. The company and the department shall be permitted to make closing statements and may be represented by counsel of their choice.

(6) (a) Upon the adoption of the examination report under subsection (3)(a) of this section, the commissioner shall continue to hold the content of the examination report as private and confidential information for a period of ten (10) days except to the extent provided in subsection (2) of this section. Thereafter, the commissioner may open the report for

public inspection so long as no court of competent jurisdiction has stayed its publication.

(b) Nothing contained in Sections 83-5-201 through 83-5-217 shall prevent or be construed as prohibiting the commissioner from disclosing the content of an examination report, preliminary examination report or results, or any matter relating thereto, to the insurance department of this or any other state or country, or to law enforcement officials of this or any other state or agency of the federal government at any time, so long as such agency or office receiving the report or matters relating thereto agrees in writing to hold it confidential and in a manner consistent with Sections 83-5-201 through 83-5-217.

(c) If the commissioner determines that regulatory action is appropriate as a result of any examination, he may initiate any proceedings or actions as provided by law.

(7)* * * (a) (i) Except as provided in subsection (6) and in this subsection (7), documents, materials or other information, including, but not limited to, all working papers, and copies thereof, created, produced or obtained by or disclosed to the commissioner or any other person in the course of an examination made under Sections 83-5-201 through 83-5-217, or in the course of analysis by the commissioner of the financial condition or market conduct of a company, shall be confidential by law and privileged, shall not be subject to the Mississippi Public Records Act, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action. The commissioner is authorized to use the documents, materials or other information in the furtherance of any regulatory or legal action brought as part of the commissioner's official duties.

(ii) Documents, materials or other information, including, but not limited to, all working papers, and copies thereof, in the possession or control of the National Association of Insurance Commissioners and its affiliates and subsidiaries shall be confidential by law and privileged, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action, if they are:

1. Created, produced or obtained by or disclosed to the National Association of Insurance Commissioners and

its affiliates and subsidiaries in the course of the National Association of Insurance Commissioners and its affiliates and subsidiaries assisting an examination made under Sections 83-5-201 through 83-5-217, or the laws of another state or jurisdiction that is substantially similar to Sections 83-5-201 through 83-5-217, or assisting a commissioner in the analysis of the financial condition or market conduct of a company; or

2. Disclosed to the National Association of Insurance Commissioners and its affiliates and subsidiaries under paragraph (c) of this subsection by a commissioner.

(b) Neither the commissioner nor any person who received the documents, material or other information while acting under the authority of the commissioner, including the National Association of Insurance Commissioners and its affiliates and subsidiaries, shall be permitted to testify in any private civil action concerning any confidential documents, materials or information subject to paragraph (a) of this subsection.

(c) In order to assist in the performance of the commissioner's duties, the commissioner:

(i) May share documents, materials or other information, including the confidential and privileged documents, materials or information subject to paragraph (a) of this subsection, with other state, federal and international regulatory agencies, with the National Association of Insurance Commissioners and its affiliates and subsidiaries, and with state, federal and international law enforcement authorities, provided that the recipient agrees to maintain the confidentiality and privileged status of the document, material, communication or other information;

(ii) May receive documents, materials, communications or information, including otherwise confidential and privileged documents, materials or information, from the National Association of Insurance Commissioners and its affiliates and subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material or information; and

(iii) May enter into agreements governing the sharing and use of information consistent with this subsection.

(d) No waiver of any applicable privilege or claim of confidentiality in the documents, materials or information shall occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in paragraph (c) of this subsection.

(e) A privilege established under the law of any state or jurisdiction that is substantially similar to the privilege established under this subsection shall be available and enforced in any proceeding in, and in any court of, this state.

(f) For the purposes of this subsection, the terms "department," "insurance department," "law enforcement agency," "regulatory agency," and the "National Association of Insurance Commissioners" include, but are not limited to, their employees, agents, consultants and contractors.

SECTION 3. Section 83-5-401, Mississippi Code of 1972, is amended as follows:

83-5-401. As used in Sections 83-5-401 through 83-5-427, the following words and phrases shall have the meanings ascribed herein unless the context clearly indicates otherwise:

(a) "Adjusted RBC report" means a risk-based capital report which has been adjusted by the commissioner in accordance with Section 83-5-403(5).

(b) "Corrective order" means an order issued by the commissioner specifying corrective actions which the commissioner has determined are required.

(c) "Domestic insurer" means any insurance company domiciled in this state.

(d) "Foreign insurer" means any insurance company which is licensed to do business in this state under Section 83-21-1 et seq., but is not domiciled in this state.

(e) "NAIC" means the National Association of Insurance Commissioners.

(f) "Life and/or health insurer" means any insurance company licensed under Section 83-19-1 et seq., or a licensed property and casualty insurer writing only accident and health insurance.

(g) "Property and casualty insurer" means any insurance company licensed under Section 83-19-1 et seq., but shall not include monoline mortgage guaranty insurers, financial guaranty insurers and title insurers.

(h) "Negative trend" means, with respect to a life and/or health insurer, negative trend over a period of time, as determined in accordance with the "Trend Test Calculation" included in the Life RBC instructions.

(i) "RBC instructions" means the RBC report including risk-based capital instructions adopted by the NAIC, as such RBC instructions may be amended by the NAIC from time to time in accordance with the procedures adopted by the NAIC.

(j) "RBC level" means an insurer's company action level RBC, regulatory action level RBC, authorized control level RBC, or mandatory control level RBC where:

(i) "Company action level RBC" means, with respect to any insurer, the product of 2.0 and its authorized control level RBC;

(ii) "Regulatory action level RBC" means the product of 1.5 and its authorized control level RBC;

(iii) "Authorized control level RBC" means the number determined under the risk-based capital formula in accordance with the RBC instructions;

(iv) "Mandatory control level RBC" means the product of .70 and the authorized control level RBC.

(k) "RBC plan" means a comprehensive financial plan containing the elements specified in Section 83-5-405(2). If the commissioner rejects the RBC plan, and it is revised by the insurer, with or without the commissioner's recommendation, the plan shall be called the "revised RBC plan."

(l) "RBC report" means the report required in Section 83-5-403.

(m) "Total adjusted capital" means the sum of:

(i) An insurer's statutory capital and surplus as determined in accordance with the statutory accounting applicable to the annual financial statements required to be filed under Section 83-5-55; and

(ii) Such other items, if any, as the RBC instructions may provide.

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(n) "Domestic health organization insurer" means a health organization insurer domiciled in this state.

(o) "Foreign health organization insurer" means a health organization insurer that is licensed to do business in this state under Section 83-21-1 et seq., but is not domiciled in this state.

(p) "Health organization insurer" means a health maintenance organization, limited health service organization, dental or vision plan, hospital, medical and dental indemnity or service corporation or other managed care organization that holds a certificate of authority under Section 83-41-305. This definition does not include an organization that is licensed as either a life and health insurer or property and casualty insurer and that is otherwise subject to either the life or property and casualty RBC requirements.

SECTION 4. Section 83-5-403, Mississippi Code of 1972, is amended as follows:

83-5-403. (1) Every domestic insurer shall, on or before each March 1, the filing date, prepare and submit to the commissioner a report of its RBC levels as of the end of the calendar year just ended, in a form and containing such information as is required by the RBC instructions. In addition, every domestic insurer shall file its RBC report:

(a) With the NAIC in accordance with the RBC instructions; and

(b) With the insurance commissioner in any state in which the insurer is authorized to do business, if the insurance commissioner has notified the insurer of its request in writing, in which case the insurer shall file its RBC report not later than the later of:

(i) Fifteen (15) days from the receipt of notice to file its RBC report with that state; or

(ii) The filing date.

(2) A life and health insurer's RBC shall be determined in accordance with the formula set forth in the RBC instructions. The formula shall take into account, and may adjust for the covariance between, the following factors determined in each case by applying the factors in the manner set forth in the RBC instructions.

(a) The risk with respect to the insurer's assets;

(b) The risk of adverse insurance experience with respect to the insurer's liabilities and obligations;

(c) The interest rate risk with respect to the insurer's business; and

(d) All other business risks and such other relevant risks as are set forth in the RBC instructions.

(3) A property and casualty insurer's RBC shall be determined in accordance with the formula set forth in the RBC instructions. The formula shall take the following into account, and may adjust for the covariance between, determined in each case by applying the factors in the manner set forth in the RBC instructions:

(a) Asset risk;

(b) Credit risk;

(c) Underwriting risk; and

(d) All other business risks and such other relevant risks as are set forth in the RBC instructions.

(4) A health organization insurer's RBC shall be determined in accordance with the formula set forth in the RBC instructions. The formula shall take the following into account (and may adjust for the covariance between) determined in each case by applying the factors in the manner set forth in the RBC instructions:

(a) Asset risk;

(b) Credit risk;

(c) Underwriting risk; and

(d) All other business risks and such other relevant risks as are set forth in the RBC instructions.

(* * * 5) An excess of capital over the amount produced by the risk-based capital requirements contained in Sections 83-5-401 through 83-5-427 and the formulas, schedules and instructions referenced in Sections 83-5-401 through 83-5-427, is desirable in the business of insurance. Accordingly, insurers should seek to maintain capital above the RBC levels required by Sections 83-5-401 through 83-5-427. Additional capital is used and useful in the insurance business and helps to secure an insurer against various risks inherent in, or affecting, the business of insurance and not accounted

for or only partially measured by the risk-based capital requirements contained in Sections 83-5-401 through 83-5-427.

(* * * 6) If a domestic insurer files a RBC report which in the judgment of the commissioner is inaccurate, then the commissioner shall adjust the RBC report to correct the inaccuracy and shall notify the insurer of the adjustment. The notice shall contain a statement of the reason for the adjustment. A RBC report as so adjusted is referred to as an "adjusted RBC report."

SECTION 5. Section 83-5-405, Mississippi Code of 1972, is amended as follows:

83-5-405. (1) "Company action level event" means any of the following events:

(a) The filing of a RBC report by an insurer which indicates that:

(i) The insurer's total adjusted capital is greater than or equal to its regulatory action level RBC but less than its company action level RBC;

(ii) If a life and/or health insurer, the insurer has total adjusted capital which is greater than or equal to its company action level RBC but less than the product of its authorized control level RBC and 2.5 and has a negative trend; or

(iii) If a property and casualty insurer, the insurer has total adjusted capital which is greater than or equal to its company action level RBC but less than the product of its authorized control level RBC and 3.0 and triggers the trend test determined in accordance with the trend test calculation included in the property and casualty RBC instructions;

(iv) If a health organization insurer, the insurer has total adjusted capital which is greater than or equal to its company action level RBC but less than the product of its authorized control level RBC and 3.0 and triggers the trend test determined in accordance with the trend test calculations included in the health RBC instructions;

(b) The notification by the commissioner to the insurer of an adjusted RBC report that indicates an event in paragraph (a) of this subsection, provided the insurer does not challenge the adjusted RBC report under Section 83-5-413; or

(c) If, under Section 83-5-413, an insurer challenges an adjusted RBC report that indicates the event in paragraph (a) of this subsection, the notification by the commissioner to the insurer that the commissioner has, after a hearing, rejected the insurer's challenge.

(2) In the event of a company action level event, the insurer shall prepare and submit to the commissioner a RBC plan which shall:

(a) Identify the conditions which contribute to the company action level event;

(b) Contain proposals of corrective actions which the insurer intends to take and would be expected to result in the elimination of the company action level event;

(c) Provide projections of the insurer's financial results in the current year and at least the four (4) succeeding years, both in the absence of proposed corrective actions and giving effect to the proposed corrective actions, including projections of statutory operating income, net income, capital and surplus. The projections for both new and renewal business might include separate projections for each major line of business and separately identify each significant income, expense and benefit component;

(d) Identify the key assumptions impacting the insurer's projections and the sensitivity of the projections to the assumptions; and

(e) Identify the quality of, and problems associated with, the insurer's business, including, but not limited to, its assets, anticipated business growth and associated surplus strain, extraordinary exposure to risk, mix of business and use of reinsurance, if any, in each case.

(3) The RBC plan shall be submitted:

(a) Within forty-five (45) days of the company action level event; or

(b) If the insurer challenges an adjusted RBC report under Section 83-5-413, within forty-five (45) days after notification to the insurer that the commissioner has, after a hearing, rejected the insurer's challenge.

(4) Within sixty (60) days after the submission by an insurer of a RBC plan to the commissioner, the commissioner shall notify the insurer whether the RBC plan shall be implemented

or is, in the judgment of the commissioner, unsatisfactory. If the commissioner determines the RBC plan is unsatisfactory, the notification to the insurer shall set forth the reasons for the determination, and may set forth proposed revisions which will render the RBC plan satisfactory, in the judgment of the commissioner. Upon notification from the commissioner, the insurer shall prepare a revised RBC plan, which may incorporate by reference any revisions proposed by the commissioner, and shall submit the revised RBC plan to the commissioner:

(a) Within forty-five (45) days after the notification from the commissioner; or

(b) If the insurer challenges the notification from the commissioner under Section 83-5-413, within forty-five (45) days after a notification to the insurer that the commissioner has, after a hearing, rejected the insurer's challenge.

(5) In the event of a notification by the commissioner to an insurer that the insurer's RBC plan or revised RBC plan is unsatisfactory, the commissioner may at the commissioner's discretion, subject to the insurer's right to a hearing under Section 83-5-413, specify in the notification that the notification constitutes a regulatory action level event.

(6) Every domestic insurer that files a RBC plan or revised RBC plan with the commissioner shall file a copy of the RBC plan or revised RBC plan with the insurance commissioner in any state in which the insurer is authorized to do business if:

(a) Such state has a RBC provision substantially similar to Section 83-5-415(1); and

(b) The insurance commissioner of that state has notified the insurer of its request for the filing in writing, in which case the insurer shall file a copy of the RBC plan or revised RBC plan in that state no later than the later of:

(i) Fifteen (15) days after the receipt of notice to file a copy of its RBC plan or revised RBC plan with the state; or

(ii) The date on which the RBC plan or revised RBC plan is filed under Section 83-5-405(3) and (4).

SECTION 6. Section 83-5-417, Mississippi Code of 1972, is amended as follows:

83-5-417. (1) The provisions of Sections 83-5-401 through 83-5-427 are supplemental to any other provisions of the laws of this state and shall not preclude or limit any other powers or duties of the commissioner under such laws.

(2) The commissioner may promulgate rules and regulations necessary for the implementation of Sections 83-5-401 through 83-5-427.

(3) The commissioner may exempt from the application of Sections 83-5-401 through 83-5-427 any domestic insurer, other than a domestic health organization insurer, that:

(a) Writes direct business only in this state;

(b) Writes direct annual premiums of Two Million Dollars (\$2,000,000.00) or less; and

(c) Assumes no reinsurance in excess of five percent (5%) of direct premium written.

(4) The commissioner may exempt from the application of Sections 83-5-401 through 83-5-427 a domestic health organization insurer that:

(a) Writes direct business only in this state;

(b) Assumes no reinsurance in excess of five percent (5%) of direct premium written; and

(c) Writes direct annual premiums for comprehensive medical business of Two Million Dollars (\$2,000,000.00) or less, or is a limited health service organization that covers less than two thousand (2,000) lives.

SECTION 7. Section 83-5-427, Mississippi Code of 1972, is amended as follows:

83-5-427. (1) For RBC reports required to be filed by life insurers with respect to 1996, the following requirements shall apply in lieu of the provisions of Sections 83-5-405, 83-5-407, 83-5-409, and 83-5-411.

(a) In the event of a company action level event with respect to a domestic insurer, the commissioner shall take no regulatory action hereunder.

(b) In the event of a regulatory action level event under Section 83-5-407(1)(a), (b) or (c), the commissioner shall take the actions required under Section 83-5-405.

(c) In the event of a regulatory action level event under Section 83-5-407(1)(d), (e), (f), (g), (h) or (i), or an authorized control level event, the commissioner shall take the actions required under Section 83-5-407 with respect to the insurer.

(d) In the event of a mandatory control level event with respect to an insurer, the commissioner shall take the actions required under Section 83-5-409 with respect to the insurer.

(2) For RBC reports required to be filed by property and casualty insurers with respect to 1996, the following requirements shall apply in lieu of the provisions of Sections 83-5-405, 83-5-407, 83-5-409, and 83-5-411:

(a) In the event of a company action level event with respect to a domestic insurer, the commissioner shall take no regulatory action hereunder.

(b) In the event of a regulatory action level event under Section 83-5-407(1)(a), (b) or (c), the commissioner shall take the actions required under Section 83-5-405.

(c) In the event of a regulatory action level event under Section 83-5-407(1)(d), (e), (f), (g), (h) or (i), or an authorized control level event, the commissioner shall take the actions required under Section 83-5-407 with respect to the insurer.

(d) In the event of a mandatory control level event with respect to an insurer, the commissioner shall take the actions required under Section 83-5-409 with respect to the insurer.

(3) For RBC reports required to be filed by health organization insurers with respect to 2013, the following requirements shall apply in lieu of the provisions of Sections 83-5-405, 83-5-407, 83-5-409 and 83-5-411:

(a) In the event of a company action level event with respect to a domestic health organization insurer, the commissioner shall take no regulatory action hereunder;

(b) In the event of a regulatory action level event under Section 83-5-407(1)(a), (b) or (c), the commissioner shall take the actions required under Section 83-5-405;

(c) In the event of a regulatory action level event under Section 83-5-407(1)(d), (e), (f), (g), (h) or (i), or an

authorized control level event, the commissioner shall take the actions required under Section 83-5-407 with respect to the health organization insurer; and

(d) In the event of a mandatory control level event with respect to a health organization insurer, the commissioner shall take the actions required under Section 83-5-409 with respect to the health organization insurer.

SECTION 8. Section 83-6-1, Mississippi Code of 1972, is amended as follows:

83-6-1. As used in this chapter the following terms have the respective meanings herein set forth unless the context shall require otherwise:

(a) An "affiliate of" or person "affiliated" with a specific person means a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

(b) "Commissioner" means the Commissioner of Insurance.

(c) "Control" (including the terms "controlling," "controlled by" and "under common control with") means the possession of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services or otherwise, unless the power is the result of an official position with or corporate office held by the person. "Control" shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote or holds proxies representing ten percent (10%) or more of the voting securities of any other person. This presumption may be rebutted by a showing made in the manner provided in Section 83-6-17 that control does not exist in fact. The commissioner may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support such determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

(d) An "insurance holding company system" consists of two (2) or more affiliated persons, one or more of which is an insurer.

(e) "Insurer" means only those companies subject to the jurisdiction of the commissioner as provided in Section 83-5-1; however, burial associations regulated pursuant to Chapter 37* * *, Title 83, Mississippi Code of 1972, are excluded from this definition.

(f) "Person" means an individual, corporation, partnership, association, joint__-stock company, trust, unincorporated organization, any similar entity or any combination of the foregoing acting in concert, but shall not include any securities broker performing no more than the usual and customary broker's function.

(g) A "security holder" of a specified person means one who owns any security of such person, including common stock, preferred stock, debt obligations and any other security convertible into or evidencing the right to acquire any of the foregoing.

(h) "Subsidiary" of a specified person means an affiliate controlled by a person, directly or indirectly, through one or more intermediaries.

(i) The term "voting security" includes any security convertible into or evidencing a right to acquire a voting security.

(j) "Enterprise risk" shall mean any activity, circumstance, event or series of events involving one or more affiliates of an insurer that, if not remedied promptly, is likely to have a material adverse effect upon the financial condition or liquidity of the insurer or its insurance holding company system as a whole, including, but not limited to, anything that would cause the insurer's Risk-Based Capital to fall into company action level as provided in Section 83-5-405 or would cause the insurer to be in hazardous financial condition as provided in Section 83-5-411.

SECTION 9. Section 83-6-5, Mississippi Code of 1972, is amended as follows:

83-6-5. (1) Every insurer subject to registration is required to file a registration statement on a form provided by the commissioner which shall contain current information setting forth:

(a) The capital structure, general financial condition, ownership and management of the insurer and any person controlling the insurer;

(b) The identity of every member of the insurance holding company system;

(c) The following agreements in force, relationships subsisting and transactions currently outstanding between such insurer and its affiliates:

(i) Loans, other investments or purchases, sales or exchanges of securities of the affiliates by the insurer or of the insurer by its affiliates;

(ii) Purchases, sales or exchanges of assets;

(iii) Transactions not in the ordinary course of business;

(iv) Guarantees or undertakings for the benefit of an affiliate which result in an actual contingent exposure of the insurer's assets to liability, other than insurance contracts entered into in the ordinary course of the insurer's business;

(v) All management and service contracts and all cost-sharing arrangements, other than cost allocation arrangements based upon generally accepted accounting principles; * * *

(vi) Reinsurance agreements covering all or substantially all of one or more lines of insurance of the ceding company;

(vii) Dividends and other distributions to shareholders;
and

(viii) Consolidated tax allocation agreements.

(d) Any pledge of the insurer's stock, including stock of any subsidiary or controlling affiliate, for a loan made to any member of the insurance holding company system;

(e) If requested by the commissioner, the insurer shall include financial statements of or within an insurance holding company system, including all affiliates. Financial statements may include, but are not limited to, annual audited financial statements filed with the United States Securities and Exchange Commission (SEC) pursuant to the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended. An insurer required to file financial statements pursuant to this paragraph may satisfy the request by providing the

commissioner with the most recently filed parent corporation financial statements that have been filed with the SEC;

(* * * f) Other matters concerning transactions between registered insurers and any affiliates as may be included from time to time in any registration forms adopted or approved by the commissioner* * *;

(g) Statements that the insurer's board of directors oversees corporate governance and internal controls and that the insurer's officers or senior management have approved, implemented, and continue to maintain and monitor corporate governance and internal control procedures.

(2) All registration statements shall contain a summary outlining all items in the current registration statement representing changes from the prior registration statement.

(3) Subject to Section 83-6-25, each registered insurer shall report to the commissioner all dividends and other distributions to shareholders within fifteen (15) business days following the declaration thereof.

(4) Any person within an insurance holding company system subject to registration shall be required to provide complete and accurate information to an insurer, where the information is reasonably necessary to enable the insurer to comply with the provisions of this chapter.

(5) The ultimate controlling person of every insurer subject to registration shall also file an annual enterprise risk report. The report shall, to the best of the ultimate controlling person's knowledge and belief, identify the material risks within the insurance holding company system that could pose enterprise risk to the insurer. The report shall be filed with the lead state commissioner of the insurance holding company system as determined by the procedures within the Financial Analysis Handbook adopted by the National Association of Insurance Commissioners.

SECTION 10. Section 83-6-17, Mississippi Code of 1972, is amended as follows:

83-6-17. Any person may file with the commissioner a disclaimer of affiliation with any authorized insurer or such a disclaimer may be filed by such insurer or any member of an insurance holding company system. The disclaimer shall fully disclose all material relationships and bases for affiliation

between such person and such insurer as well as the basis for disclaiming such affiliation. * * * A disclaimer of affiliation shall be deemed to have been granted unless the commissioner, within thirty (30) days following receipt of a complete disclaimer, notifies the filing party that the disclaimer is disallowed. In the event of disallowance, the disclaiming party may request an administrative hearing, which shall be granted. The * * * disclaiming party is relieved of any duty to register or report under * * * this chapter which may arise out of the insurer's relationship with such person * * * if approval of the disclaimer has been granted by the commissioner, until the commissioner disallows such a disclaimer. * * *

SECTION 11. Section 83-6-21, Mississippi Code of 1972, is amended as follows:

83-6-21. (1) Transactions within a holding company system to which an insurer subject to registration is a party shall be subject to the following standards:

(a) The terms shall be fair and reasonable;

(b) Charges or fees for services performed shall be reasonable;

(c) Expenses incurred and payment received shall be allocated to the insurer in conformity with customary insurance accounting practices consistently applied;

(d) The books, accounts and records of each party to all such transactions shall be so maintained as to clearly and accurately disclose the nature and details of the transactions including such accounting information as is necessary to support the reasonableness of the charges or fees to the respective parties; and

(e) The insurer's surplus as regards policyholders following any dividends or distributions to shareholder affiliates shall be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.

(2) The following transactions involving a domestic insurer and any person in its holding company system, including amendments or modifications of affiliate agreements previously filed pursuant to this section, which are subject to any materiality standards contained in subsection (1)(a) through (e) of this section, shall not be entered into unless the insurer has notified the commissioner in writing of its

intention to enter into such transaction at least thirty (30) days prior thereto, or such shorter period as the commissioner may permit, and the commissioner has not disapproved it within such period. The notice for amendments or modifications shall include the reasons for the change and the financial impact on the domestic insurer. Informal notice shall be reported within thirty (30) days after a termination of a previously filed agreement to the commissioner for determination of the type of filing required, if any.

(a) Sales, purchases, exchanges, loans or extension of credit, guarantees or investments provided such transactions are equal to or exceed: (i) with respect to nonlife insurers, the lesser of three percent (3%) of the insurer's admitted assets or twenty-five percent (25%) of surplus as regards policyholders; and (ii) with respect to life insurers, three percent (3%) of the insurer's admitted assets; each as of* *
* December 31 next preceding:

(b) Loans or extensions of credit to any person who is not an affiliate, where the insurer makes such loans or extension of credit with the agreement or understanding that the proceeds of such transactions, in whole or in substantial part, are to be used to make loans or extensions of credit to, to purchase assets of or to make investments in, any affiliate of the insurer making such loans or extensions of credit provided such transactions are equal to or exceed: (i) with respect to nonlife insurers, the lesser of three percent (3%) of the insurer's admitted assets or twenty-five percent (25%) of surplus as regards policyholders; and (ii) with respect to life insurers, three percent (3%) of the insurer's admitted assets; each as of* * * December 31 next preceding;

(c) Reinsurance agreements or modifications thereto, including (i) all reinsurance pooling agreements; and (ii) agreements in which the reinsurance premium or a change in the insurer's liabilities equals or exceeds five percent (5%) of the insurer's surplus as regards policyholders, as of* * * December 31 next preceding, including those agreements which may require as consideration the transfer of assets from an insurer to a nonaffiliate, if an agreement or understanding exists between the insurer and nonaffiliate that any portion of such assets will be transferred to one or more affiliates of the insurer;

(d) All management agreements that would place control of the insurer outside of the insurance holding company system;

(e) All service contracts or cost-sharing arrangements wherein the annual aggregate cost to the insurer would equal or exceed the amounts specified in paragraph (a) of this subsection* * *;

(f) All tax allocation agreements;

(g) Guarantees when made by a domestic insurer; provided, however, that a guarantee which is quantifiable as to amount is not subject to the notice requirements of this paragraph unless it exceeds the lesser of one-half of one percent (.5%) of the insurer's admitted assets or ten percent (10%) of surplus as regards policyholders as of December 31 next preceding. Further, all guarantees which are not quantifiable as to amounts are subject to the notice requirements of this paragraph;

(h) Direct or indirect acquisitions or investments in a person that controls the insurer or in an affiliate of the insurer in an amount which, together with its present holdings in such investments, exceeds two and one-half percent (2.5%) of the insurer's surplus as to policyholders. Direct or indirect acquisitions or investments in subsidiaries acquired pursuant to Section 83-6-2, or in nonsubsidiary insurance affiliates that are subject to the provisions of this chapter, are exempt from this requirement; and

(i) Any material transactions, specified by regulation, which the commissioner determines may adversely affect the interests of the insurer's policyholders.

(3) A domestic insurer shall not enter into transactions which are part of a plan or series of like transactions with persons within the holding company system if the purpose of those separate transactions is to avoid the statutory threshold amount and avoid the review that would occur otherwise. If the commissioner determines that such separate transactions were entered into over any twelve-month period for such purpose, he may exercise his authority under Section 83-6-35.

(4) The commissioner, in reviewing transactions pursuant to subsection (2) of this section, shall consider whether the transactions comply with the standards set forth in subsection (1) of this section and whether they may adversely affect the interests of policyholders.

(5) The commissioner shall be notified within thirty (30) days of any investment of the domestic insurer in any one (1) corporation if the total investment in such corporation by the insurance holding company system exceeds ten percent (10%) of such corporation's voting securities.

(6) Insurance companies within a holding company system shall not sell or exchange their stock among each other unless the companies have obtained stock company permits before conducting such transactions.

SECTION 12. Section 83-6-24, Mississippi Code of 1972, is amended as follows:

83-6-24. (1) (a) No person other than the issuer shall make a tender offer for or a request or invitation for tenders of, or enter into any agreement to exchange securities, or seek to acquire, or acquire, in the open market or otherwise, any voting security of a domestic insurer if, after the consummation thereof, such person would, directly or indirectly (or by conversion or by exercise of any right to acquire) be in control of such insurer, and no person shall enter into an agreement to merge with or otherwise to acquire control of a domestic insurer or any person controlling a domestic insurer unless, at the time any such offer, request, or invitation is made or any such agreement is entered into, or prior to the acquisition of such securities if no offer or agreement is involved, such person has filed with the commissioner and has sent to such insurer, a statement containing the information required by this section and such offer, request, invitation, agreement or acquisition has been approved by the commissioner in the manner hereinafter prescribed.

(b) For the purposes of this section, "a domestic insurer" shall include any person controlling a domestic insurer unless such person as determined by the commissioner is either directly or through its affiliates primarily engaged in business other than the business of insurance. However, such person shall file a preacquisition notification with the commissioner containing the information set forth in this section thirty (30) days prior to the proposed effective date of the acquisition. For the purposes of this section, "person" shall not include any securities broker holding, in the usual and customary brokers function, less than twenty percent (20%) of the voting securities of an insurance company or of any person which controls an insurance company.

(c) For purposes of this section, any controlling person of a domestic insurer seeking to divest its controlling interest in the domestic insurer, in any manner, shall file with the commissioner, with a copy to the insurer, confidential notice of its proposed divestiture at least thirty (30) days prior to the cessation of control. The commissioner shall determine those instances in which the party(ies) seeking to divest or to acquire a controlling interest in an insurer will be required to file for and obtain approval of the transaction. The information shall remain confidential until the conclusion of the transaction unless the commissioner, in his discretion, determines that confidential treatment will interfere with enforcement of this section. If the statement referred to in paragraph (b) of this subsection is otherwise filed, this paragraph shall not apply.

(2) The statement to be filed with the commissioner hereunder shall be made under oath or affirmation and shall contain the following information:

(a) The name and address of each person by whom or on whose behalf the merger or other acquisition of control referred to in subsection (1) is to be effected (hereinafter called "acquiring party"), and

(i) If such person is an individual, his principal occupation and all offices and positions held during the past five (5) years, and any conviction of crimes other than minor traffic violations during the past ten (10) years;

(ii) If such person is not an individual, a report of the nature of its business operations during the past five (5) years or for such lesser period as such person and any predecessors thereof shall have been in existence; an informative description of the business intended to be done by such person and such person's subsidiaries; and a list of all individuals who are or who have been selected to become directors or executive officers of such person, or who perform or will perform functions appropriate to such positions. Such list shall include for each such individual the information required by subparagraph (i).

(b) The source, nature and amount of consideration used or to be used in effecting the merger or other acquisition of control, a description of any transaction wherein funds were or are to be obtained for any such purpose (including any pledge of the insurer's stock, or the stock of any of

its subsidiaries or controlling affiliates), and the identity of persons furnishing such consideration, provided, however, that where a source of such consideration is a loan made in the lender's ordinary course of business, the identity of the lender shall remain confidential, if the person filing such statement so requests.

(c) Fully audited financial information as to the earnings and financial condition of each acquiring party for the preceding five (5) fiscal years of each such acquiring party (or for such lesser period as such acquiring party and any predecessors thereof shall have been in existence), and similar unaudited information as of a date not earlier than ninety (90) days prior to the filing of the statement.

(d) Any plans or proposals which each acquiring party may have to liquidate such insurer, to sell its assets or merge or consolidate it with any person, or to make any other material change in its business or corporate structure or management.

(e) The number of shares of any security referred to in subsection (1) which each acquiring party proposes to acquire, and the terms of the offer, request, invitation, agreement or acquisition referred to in subsection (1), and a statement as to the method by which the fairness of the proposal was determined.

(f) The amount of each class of any security referred to in subsection (1) which is beneficially owned or concerning which there is a right to acquire beneficial ownership by each acquiring party.

(g) A full description of any contracts, arrangements or understandings with respect to any security referred to in subsection (1) in which any acquiring party is involved, including but not limited to, transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits or the giving or withholding of proxies. Such description shall identify the persons with whom such contracts, arrangements or understandings have been entered into.

(h) A description of the purchase of any security referred to in subsection (1) during the twelve (12) calendar months preceding the filing of the statement, by any acquiring party,

including the dates of purchase, names of the purchasers and consideration paid or agreed to be paid therefor.

(i) A description of any recommendations to purchase any security referred to in subsection (1) made during the twelve (12) calendar months preceding the filing of the statement, by any acquiring party, or by anyone based upon interviews or at the suggestion of such acquiring party.

(j) Copies of all tender offers for, requests, or invitations for tenders of, exchange offers for and agreements to acquire or exchange any securities referred to in subsection (1) and (if distributed) of additional soliciting material relating thereto.

(k) The terms of any agreement, contract or understanding made with or proposed to be made with any broker-dealer as to solicitation of securities referred to in subsection (1) for tender, and the amount of any fees, commissions or other compensation to be paid to broker-dealers with regard thereto.

(l) An agreement by the person required to file the statement referred to in subsection (1) that it will provide the annual report, specified in Section 83-6-5(5), for so long as control exists.

(m) An acknowledgment by the person required to file the statement referred to in subsection (1) that the person and all subsidiaries within its control in the insurance holding company system will provide information to the commissioner upon request as necessary to evaluate enterprise risk to the insurer.

(* * * n) Such additional information as the commissioner may by rule or regulation prescribe as necessary or appropriate for the protection of policyholders of the insurer or in the public interest.

If the person required to file the statement referred to in subsection (1) is a partnership, limited partnership, syndicate or other group, the commissioner may require that the information called for by paragraphs (a) through (l) shall be given with respect to each partner of such partnership or limited partnership, each member of such syndicate or group and each person who controls such partner or member. If any such partner, member or person is a corporation, or the person required to file the statement referred to in subsection (1) is a corporation, the commissioner may require

that the information called for by paragraphs (a) through (1) shall be given with respect to such corporation, each officer and director of such corporation and each person who is directly or indirectly the beneficial owner of more than ten percent (10%) of the outstanding voting securities of such corporation.

If any material change occurs in the facts set forth in the statement filed with the commissioner and sent to such insurer pursuant to this section, an amendment setting forth such change, together with copies of all documents and other material relevant to such change, shall be filed with the commissioner and sent to such insurer within two (2) business days after the person learns of such change.

(3) If any offer, request, invitation, agreement or acquisition referred to in subsection (1) is proposed to be made by means of a registration statement under the Securities Act of 1933 or in circumstances requiring the disclosure of similar information under the Securities Exchange Act of 1934, or under a state law requiring similar registration or disclosure, the person required to file the statement referred to in subsection (1) may utilize such documents in furnishing the information called for by that statement.

(4) (a) The commissioner shall approve any merger or other acquisition of control referred to in subsection (1) unless, after a public hearing thereon, he finds that:

(i) After the change of control, the domestic insurer referred to in subsection (1) would not be able to satisfy the requirements for the issuance of a license to write the line or lines of insurance for which it is presently licensed;

(ii) The effect of the merger or other acquisition of control would be substantially to lessen competition in insurance in this state or tend to create a monopoly therein;

(iii) The financial condition of any acquiring party is such as might jeopardize the financial stability of the insurer, or prejudice the interest of its policyholders;

(iv) The plans or proposals which the acquiring party has to liquidate the insurer, sell its assets or consolidate or merge it with any person, or to make any other material change in its business or corporate structure or management, are unfair and unreasonable to policyholders of the insurer and not in the public interest;

(v) The competence, experience and integrity of those persons who would control the operation of the insurer are such that it would not be in the interest of policyholders of the insurer and of the public to permit the merger or other acquisition of control; or

(vi) The acquisition is likely to be hazardous or prejudicial to the insurance buying public.

(b) The public hearing referred to in paragraph (a) of this subsection shall be commenced not less than thirty (30) days after the statement required by subsection (1) is filed, and at least twenty (20) days' notice thereof shall be given by the commissioner to the person filing the statement. Not less than seven (7) days' notice of such public hearing shall be given by the person filing the statement to the insurer and to such other persons as may be designated by the commissioner. The commissioner shall make a determination within thirty (30) days after the conclusion of such hearing. At such hearing, the person filing the statement, the insurer, any person to whom notice of hearing was sent, and any other person whose interest may be affected thereby shall have the right to present evidence, examine and cross-examine witnesses, and offer oral and written arguments and in connection therewith shall be entitled to conduct discovery proceedings. All discovery proceedings shall be concluded not later than three (3) days prior to the commencement of the public hearing.

(c) The commissioner may retain at the acquiring person's expense any attorneys, actuaries, accountants and other experts not otherwise a part of the commissioner's staff as may be reasonably necessary to assist the commissioner in reviewing the proposed acquisition of control.

(d) If the proposed acquisition of control will require the approval of more than one (1) commissioner, the public hearing referred to in paragraph (a) of subsection (4) may be held on a consolidated basis upon request of the person filing the statement referred to in subsection (1) of this section. Such person shall file the statement referred to in subsection (1) with the National Association of Insurance Commissioners (NAIC) within five (5) days of making the request for a public hearing. A commissioner may opt out of a consolidated hearing, and shall provide notice to the applicant of the opt-out within ten (10) days of the receipt of the statement referred to in subsection (1). A hearing conducted on a consolidated

basis shall be public and shall be held within the United States before the commissioners of the states in which the insurers are domiciled. Such commissioners shall hear and receive evidence. A commissioner may attend such hearing, in person or by telecommunication.

(e) In connection with a change of control of a domestic insurer, any determination by the commissioner that the person acquiring control of the insurer shall be required to maintain or restore the capital of the insurer to the level required by the laws and regulations of this state shall be made not later than sixty (60) days after the date of notification of the change in control submitted pursuant to Section 83-6-24(1).

(5) The provisions of this section shall not apply to any offer, request, invitation, agreement or acquisition which the commissioner by order shall exempt therefrom as (i) not having been made or entered into for the purpose and not having the effect of changing or influencing the control of a domestic insurer, or (ii) as otherwise not comprehended within the purposes of this section.

(6) The following shall be violations of this section:

(a) The failure to file any statement, amendment or other material required to be filed pursuant to subsection (1) or (2); or

(b) The effectuation or any attempt to effectuate an acquisition of control of, or merger with, a domestic insurer unless the commissioner has given his approval thereto.

(7) The courts of this state are hereby vested with jurisdiction over every person not resident, domiciled or authorized to do business in this state who files a statement with the commissioner under this section, and overall actions involving such person arising out of violations of this section, and each such person shall be deemed to have performed acts equivalent to and constituting an appointment by such a person of the commissioner to be his true and lawful attorney upon whom may be served all lawful process in any action, suit or proceeding arising out of violations of this section. Copies of all such lawful process shall be served on the commissioner and transmitted by registered or certified mail by the commissioner to such person at his last -known address.

SECTION 13. The following shall be codified as Section 83-6-26, Mississippi Code of 1972:

83-6-26. Management of Domestic Insurers Subject To Registration. (1) Notwithstanding the control of a domestic insurer by any person, the officers and directors of the insurer shall not thereby be relieved of any obligation or liability to which they would otherwise be subject by law, and the insurer shall be managed so as to assure its separate operating identity consistent with this section.

(2) Nothing in this section shall preclude a domestic insurer from having or sharing a common management or cooperative or joint use of personnel, property or services with one or more other persons under arrangements meeting the standards of Section 83-6-21.

(3) Not less than one-third (1/3) of the directors of a domestic insurer, and not less than one-third (1/3) of the members of each committee of the board of directors of any domestic insurer shall be persons who are not officers or employees of the insurer or of any entity controlling, controlled by, or under common control with the insurer and who are not beneficial owners of a controlling interest in the voting stock of the insurer or entity. At least one (1) such person must be included in any quorum for the transaction of business at any meeting of the board of directors or any committee thereof.

(4) The board of directors of a domestic insurer shall establish one or more committees comprised solely of directors who are not officers or employees of the insurer or of any entity controlling, controlled by, or under common control with the insurer and who are not beneficial owners of a controlling interest in the voting stock of the insurer or any such entity. The committee or committees shall have responsibility for nominating candidates for director for election by shareholders or policyholders, evaluating the performance of officers deemed to be principal officers of the insurer and recommending to the board of directors the selection and compensation of the principal officers.

(5) The provisions of subsections (3) and (4) shall not apply to a domestic insurer if the person controlling the insurer, such as an insurer, a mutual insurance holding company, or a publicly held corporation, has a board of directors and committees thereof that meet the requirements

of subsections (3) and (4) with respect to such controlling entity.

(6) An insurer may make application to the commissioner for a waiver from the requirements of this section, if the insurer's annual direct written and assumed premium, excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, is less than Three Hundred Million Dollars (\$300,000,000.00). An insurer may also make application to the commissioner for a waiver from the requirements of this section based upon unique circumstances. The commissioner may consider various factors including, but not limited to, the type of business entity, volume of business written, availability of qualified board members, or the ownership or organizational structure of the entity.

SECTION 14. Section 83-6-27, Mississippi Code of 1972, is amended as follows:

83-6-27. (1) The commissioner is authorized to order any insurer registered under* * * this chapter to produce such records, books, or other information papers in the possession of the insurer or its affiliates which are necessary to ascertain the financial condition or legality of conduct of such insurer. In the event such insurer fails to comply with such order, the commissioner is authorized to examine such affiliates to obtain such information.

(2) The commissioner shall exercise his authority under subsection (1) of this section only if the interests of the policyholders of such insurer may be adversely affected.

(3) The commissioner may retain at the registered insurer's expense such attorneys, actuaries, accountants and other experts not otherwise a part of the commissioner's staff which are reasonably necessary to assist in the conduct of the examination under subsection (1) of this section. Any persons so retained are under the direction and control of the commissioner and shall act in a purely advisory capacity.

(4) Each registered insurer producing for examination records, books and papers pursuant to subsection (1) of this section is liable for the expense of such examination.

SECTION 15. Section 83-6-29, Mississippi Code of 1972, is amended as follows:

83-6-29.* * *

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(1) Documents, materials or other information in the possession or control of the Department of Insurance that are obtained by or disclosed to the commissioner or any other person during an examination or investigation made pursuant to Section 83-6-27 and all information reported pursuant to Sections 83-6-24(2)(l) and (m), Sections 83-6-3, 83-6-5 and 83-6-21 shall be confidential by law and privileged, shall not be subject to the Mississippi Public Records Act, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action. However, the commissioner is authorized to use the documents, materials or other information in the furtherance of any regulatory or legal action brought as a part of the commissioner's official duties. The commissioner shall not otherwise make the documents, materials or other information public without the prior written consent of the insurer to which it pertains unless the commissioner, after giving the insurer and its affiliates who would be affected thereby notice and opportunity to be heard, determines that the interest of policyholders, shareholders or the public will be served by the publication thereof, in which event the commissioner may publish all or any part in such manner as may be deemed appropriate.

(2) Neither the commissioner nor any person who received documents, materials or other information while acting under the authority of the commissioner or with whom such documents, materials or other information are shared pursuant to this section shall be permitted or required to testify in any private civil action concerning any confidential documents, materials or information subject to subsection (1) of this section.

(3) In order to assist in the performance of the commissioner's duties, the commissioner:

(a) May share documents, materials or other information, including the confidential and privileged documents, materials or information subject to subsection (1) of this section, with other state, federal and international regulatory agencies, with the National Association of Insurance Commissioners (NAIC) and its affiliates and subsidiaries, and with state, federal and international law enforcement authorities, provided that the recipient agrees in writing to maintain the confidentiality and privileged status of the document,

material or other information, and has verified in writing the legal authority to maintain confidentiality.

(b) Notwithstanding paragraph (a) of this subsection, the commissioner may only share confidential and privileged documents, material or information reported pursuant to Section 83-6-5(5) with commissioners of states having statutes or regulations substantially similar to subsection (1) of this section and who have agreed in writing not to disclose such information.

(c) May receive documents, materials or information, including otherwise confidential and privileged documents, materials or information from the NAIC and its affiliates and subsidiaries and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material or information.

(d) Shall enter into written agreements with the NAIC governing sharing and use of information provided pursuant to this section consistent with this subsection that shall:

(i) Specify procedures and protocols regarding the confidentiality and security of information shared with the NAIC and its affiliates and subsidiaries pursuant to this section, including procedures and protocols for sharing by the NAIC with other state, federal or international regulators;

(ii) Specify that ownership of information shared with the NAIC and its affiliates and subsidiaries pursuant to this section remains with the commissioner and the NAIC's use of the information is subject to the direction of the commissioner;

(iii) Require prompt notice to be given to an insurer whose confidential information in the possession of the NAIC pursuant to this section is subject to a request or subpoena to the NAIC for disclosure or production; and

(iv) Require the NAIC and its affiliates and subsidiaries to consent to intervention by an insurer in any judicial or administrative action in which the NAIC and its affiliates and subsidiaries may be required to disclose confidential

information about the insurer shared with the NAIC and its affiliates and subsidiaries pursuant to this section.

(4) The sharing of information by the commissioner pursuant to this section shall not constitute a delegation of regulatory authority or rulemaking, and the commissioner is solely responsible for the administration, execution and enforcement of the provisions of this section.

(5) No waiver of any applicable privilege or claim of confidentiality in the documents, materials or information shall occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in subsection (3) of this section.

(6) Documents, materials or other information in the possession or control of the NAIC pursuant to this section shall be confidential by law and privileged, shall not be subject to the Mississippi Public Records Act, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action.

SECTION 16. This act shall take effect and be in force from and after July 1, 2014, except for the provisions contained in Sections 3 through 14, which shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

House Bill 559

Description: Check Cashers Act; reenact and delete repealer on.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Three/Fifths

Effective date: Passage

Chapter Number: 408

History of Actions:

- | | | | |
|----|-------|-----|--|
| 1 | 01/21 | (H) | Referred To Banking and Financial Services |
| 2 | 01/22 | (H) | Title Suff Do Pass |
| 3 | 01/24 | (H) | Passed {Vote} |
| 4 | 01/24 | (H) | Motion to Reconsider Entered (Wooten,
Zuber, Carpenter) |
| 5 | 01/25 | (H) | Motion to Reconsider Tabled |
| 6 | 01/25 | (H) | Transmitted To Senate |
| 7 | 02/22 | (S) | Referred To Business and Financial
Institutions |
| 8 | 02/28 | (S) | Title Suff Do Pass |
| 9 | 03/08 | (S) | Passed {Vote} |
| 10 | 03/11 | (S) | Transmitted To House |
| 11 | 03/14 | (H) | Enrolled Bill Signed |
| 12 | 03/14 | (S) | Enrolled Bill Signed |
| 13 | 03/20 | | Approved by Governor |

Code Section: R 075-0067-0501, R 075-0067-0503, R 075-0067-0507, R 075-0067-0509, R 075-0067-0511, R 075-0067-0513, R 075-0067-0515, R 075-0067-0516, R 075-0067-0517, R 075-0067-0519, R 075-0067-0521, R 075-0067-0523, R 075-0067-0525, R 075-0067-0527, R 075-0067-0529, R 075-0067-0531, R 075-0067-0533, R 075-0067-0535, R 075-0067-0537, RP 075-0067-0539, R 075-0067-0505

----- Additional Information -----

House Committee: Banking and Financial Services

Senate Committee: Business and Financial Institutions

Principal Author: Guice

Additional Authors: Carpenter, Flaggs, Zuber

Title: AN ACT TO REENACT SECTIONS 75-67-501 THROUGH 75-67-537, MISSISSIPPI CODE OF 1972, WHICH ARE THE MISSISSIPPI CHECK CASHERS ACT; TO REPEAL SECTION 75-67-539, MISSISSIPPI CODE OF 1972, WHICH IS A REPEALER ON THE CHECK CASHERS ACT; AND FOR RELATED PURPOSES.

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MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Banking and Financial Services

By: Representatives Guice, Carpenter, Flaggs, Zuber

House Bill 559

(As Sent to Governor)

AN ACT TO REENACT SECTIONS 75-67-501 THROUGH 75-67-537, MISSISSIPPI CODE OF 1972, WHICH ARE THE MISSISSIPPI CHECK CASHERS ACT; TO REPEAL SECTION 75-67-539, MISSISSIPPI CODE OF 1972, WHICH IS A REPEALER ON THE CHECK CASHERS ACT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 75-67-501, Mississippi Code of 1972, is reenacted as follows:

75-67-501. This article shall be known and may be cited as the "Mississippi Check Cashers Act."

SECTION 2. Section 75-67-503, Mississippi Code of 1972, is reenacted as follows:

75-67-503. The following words and phrases used in this article shall have the following meanings unless the context clearly indicates otherwise:

(a) "Appropriate law enforcement agency" means the sheriff of each county in which the licensee maintains an office, or the police chief of the municipality in which the licensee maintains an office, or law enforcement officers of the Department of Public Safety.

(b) "Attorney General" means the Attorney General of the State of Mississippi.

(c) "Check" means any check, draft, money order, personal money order, pre-authorized customer draft, or other instrument for the transmission or payment of money as determined by the Commissioner of Banking and Consumer Finance, but shall not include travelers checks or foreign drawn payment instruments.

(d) A "check casher" means any individual, partnership, association, joint-stock association, trust or corporation, excluding the United States government and the government of this state, who exchanges cash or other value for any check,

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draft, money order, personal money order, or other instrument for the transmission or payment of money, except travelers checks and foreign drawn payment instruments, and who charges a fee therefor.

(e) "Commissioner" means the Mississippi Commissioner of Banking and Consumer Finance, or his designee, as the designated official for the purpose of enforcing this article.

(f) "Department" means the Department of Banking and Consumer Finance.

(g) "Licensee" means any individual, partnership, association or corporation duly licensed by the Department of Banking and Consumer Finance to engage in the business of cashing checks under this article.

(h) "Person" means an individual, partnership, corporation, joint venture, trust, association or any legal entity however organized.

(i) "Personal money order" means any instrument for the transmission or payment of money in relation to which the purchaser or remitter appoints or purports to appoint the seller thereof as his agent for the receipt, transmission or handling of money, whether such instrument is signed by the seller or by the purchaser or remitter or some other person.

SECTION 3. Section 75-67-505, Mississippi Code of 1972, is reenacted as follows:

75-67-505. (1) (a) A person may not engage in business as a check casher or otherwise portray himself as a check casher unless the person has a valid license authorizing engagement in the business. Any transaction that would be subject to this article that is made by a person who does not have a valid license under this article shall be null and void. A separate license is required for each place of business under this article and each business must be independent of, and not a part of, any other business operation. A check cashing business shall not be a part of, or located at the same business address with, a pawnshop, title pledge office and small loan company.

(b) A check cashing business shall (i) have a definitive United States Postal address and E911 address; (ii) comply with local zoning requirements; (iii) have a minimum of one hundred (100) square feet with walls from floor to ceiling

separating the operation from any other businesses; (iv) have an outside entrance, but may be located in an area that has a common lobby shared by other businesses as long as the customers do not enter the check cashing business through another business; (v) have proper signage; and (vi) maintain separate books and records. Any licensee who does not cash any delayed deposit checks as authorized under Section 75-67-519 shall not be subject to the requirements of subparagraphs (i), (iii) and (iv) of this paragraph.

(c) A licensed check casher may sell, at the same location as his check cashing business, the following items and services: money orders; income tax preparation service; copy service; wire transfer service; notary service; pagers; pager service; prepaid cellular service; debit card; prepaid telephone cards; prepaid telephone service; and operate a processing center where utility bills, credit card payments and other payments are collected from the general public and governmental and private payments are distributed. In the event a licensee accepts wire transfers in the form of a direct deposit of a payroll check or other similar types of deposit, the licensee shall not encumber any transferred funds against a deferred deposit agreement or any delinquent deferred deposit agreement with such customer. The commissioner may authorize additional functions in addition to those provided in this subsection that may be performed as part of a check cashing business.

(d) The commissioner may issue more than one (1) license to a person if that person complies with this article for each license. A new license is required upon a change, directly or beneficially, in the ownership of any licensed check casher business and an application shall be made to the commissioner in accordance with this article.

(2) When a licensee wishes to move a check casher business to another location, the licensee shall give thirty (30) days' prior written notice to the commissioner who shall amend the license accordingly.

(3) Each license shall remain in full force and effect until relinquished, suspended, revoked or expired. With each initial application for a license, the applicant shall pay the commissioner at the time of making the application a license fee of Seven Hundred Fifty Dollars (\$750.00), and on or before September 1 of each year thereafter, an annual

renewal fee of Four Hundred Seventy-five Dollars (\$475.00). If the annual renewal fee remains unpaid twenty-nine (29) days after September 1, the license shall thereupon expire, but not before the thirtieth day of September of any year for which the annual fee has been paid. If any licensee fails to pay the annual renewal fee before the thirtieth day of September of any year for which the renewal fee is due, then the licensee shall be liable for the full amount of the license fee, plus a penalty in an amount not to exceed Twenty-five Dollars (\$25.00) for each day that the licensee has engaged in business after September 30. All licensing fees and penalties shall be paid into the Consumer Finance Fund of the Department of Banking and Consumer Finance.

(4) Notwithstanding other provisions of this article, the commissioner may issue a temporary license authorizing the operator of a check casher business on the receipt of an application for a license involving principals and owners that are substantially identical to those of an existing licensed check casher. The temporary license is effective until the permanent license is issued or denied.

SECTION 4. Section 75-67-507, Mississippi Code of 1972, is reenacted as follows:

75-67-507. The provisions of this article shall not apply to:

(a) Any bank, trust company, savings association, savings and loan association, savings bank or credit union which is chartered under the laws of this state or under federal law and domiciled in this state.

(b) Any person who cashes checks at their face value and does not charge the consumer a fee or otherwise receive any consideration from the consumer.

(c) Any person principally engaged in the retail sale of goods or services who, either as an incident to or independently of a retail sale, may from time to time cash checks for a fee, not exceeding three percent (3%) of the face amount of the check or Ten Dollars (\$10.00), whichever is greater. However, the fee shall be conspicuously posted for public view.

SECTION 5. Section 75-67-509, Mississippi Code of 1972, is reenacted as follows:

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75-67-509. To be eligible for a check casher license, an applicant shall:

(a) Operate lawfully and fairly within the purposes of this article.

(b) Not have been convicted of a felony in the last ten (10) years or be active as a beneficial owner for someone who has been convicted of a felony in the last ten (10) years.

(c) File with the commissioner a bond with good security in the penal sum of Ten Thousand Dollars (\$10,000.00), payable to the State of Mississippi for the faithful performance by the licensee of the duties and obligations pertaining to the business so licensed and the prompt payment of any judgment which may be recovered against the licensee on account of charges or other claims arising directly or collectively from any violation of the provisions of this article. The bond shall not be valid until it is approved by the commissioner. The applicant may file, in lieu of the bond, cash, a certificate of deposit or government bonds in the amount of Ten Thousand Dollars (\$10,000.00). Those deposits shall be filed with the commissioner and are subject to the same terms and conditions as are provided for in the surety bond required in this paragraph. Any interest or earnings on those deposits are payable to the depositor.

(d) File with the commissioner an application for a license and the initial license fee required in this article. If applicant's application is approved, a check casher license will be issued within thirty (30) days.

(e) Submit a set of fingerprints from any local law enforcement agency. In order to determine the applicant's suitability for license, the commissioner shall forward the fingerprints to the Department of Public Safety; and if no disqualifying record is identified at the state level, the fingerprints shall be forwarded by the Department of Public Safety to the FBI for a national criminal history record check.

(f) Complete and file with the commissioner an annual renewal application for a license accompanied by the renewal fee required in this article.

SECTION 6. Section 75-67-511, Mississippi Code of 1972, is reenacted as follows:

75-67-511. Each application for a license shall be in a form prescribed by the commissioner, signed under oath, and shall include the following:

(a) The legal name, residence and business address of the applicant and, if the applicant is a partnership, association or corporation, of every member, officer and director thereof.

However, the application need not state the full name and address of each shareholder, if the applicant is owned directly or beneficially by a person which as an issuer has a class of securities registered under Section 12 of the Securities and Exchange Act of 1934 or is an issuer of securities which is required to file reports with the Securities and Exchange Commission under Section 15(d) of the Securities and Exchange Act, provided that the person files with the commissioner such information, documents and reports as are required by the provisions of the Securities and Exchange Act to be filed by the issuer with the Securities and Exchange Commission.

(b) The complete address of the location at which the applicant proposes to engage in the business of cashing checks.

(c) Other data and information the department may require with respect to the applicant, its directors, trustees, officers, members or agents.

(d) Sworn financial statements of the applicant showing a net worth of at least Twenty Thousand Dollars (\$20,000.00) for the first license. The applicant shall possess and maintain a net worth of at least Twenty Thousand Dollars (\$20,000.00) for the first license and at least Five Thousand Dollars (\$5,000.00) for each additional license.

SECTION 7. Section 75-67-513, Mississippi Code of 1972, is reenacted as follows:

75-67-513. (1) Upon filing of an application in a form prescribed by the commissioner, accompanied by the documents required in this article, the department shall investigate to ascertain whether the qualifications prescribed by Sections 75-67-509 and 75-67-511 have been satisfied. If the commissioner finds that the qualifications have been satisfied and, if he approves the documents so filed by the applicant, he shall issue to the applicant a license to engage in the business of check cashing in this state.

(2) The license shall be kept conspicuously posted in the place of business of the licensee.

SECTION 8. Section 75-67-515, Mississippi Code of 1972, is reenacted as follows:

75-67-515. (1) The department may adopt reasonable administrative regulations, not inconsistent with law, for the enforcement of this article.

(2) To assure compliance with the provisions of this article, the department may examine the books and records of any licensee without notice during normal business hours. The commissioner may charge the licensee an examination fee in an amount not less than Three Hundred Dollars (\$300.00) nor more than Six Hundred Dollars (\$600.00) for each office or location within the State of Mississippi plus any actual expenses incurred while examining the licensee's records or books that are located outside the State of Mississippi. However, in no event shall a licensee be examined more than once in a two-year period unless for cause shown based upon consumer complaint and/or other exigent reasons as determined by the commissioner.

(3) Each licensee shall keep and use in its business any books, accounts and records the department may require to carry into effect the provisions of this article and the administrative regulations issued under this article. Every licensee shall preserve the books, accounts and records of its business for at least two (2) years.

(4) Any fee charged by a licensee for cashing a check shall be posted conspicuously to the bearer of the check before cashing the check, and the fee shall be a service fee and not interest.

(5) Before a licensee deposits with any bank or other depository institution a check cashed by the licensee, the check shall be endorsed with the actual name under which the licensee is doing business.

(6) All personal checks cashed for a customer by a licensee shall be dated on the actual date the cash is tendered to the customer.

(7) No licensee shall cash a check payable to a payee unless the licensee has previously obtained appropriate identification of the payee clearly indicating the authority

of the person cashing the check, draft or money order on behalf of the payee.

(8) No licensee shall indicate through advertising, signs, billboards or otherwise that checks may be cashed without identification of the bearer of the check; and any person seeking to cash a check shall be required to submit reasonable identification as prescribed by the department. The provisions of this subsection shall not prohibit a licensee from cashing a check simultaneously with the verification and establishment of the identity of the presenter by means other than presentation of identification.

(9) Within five (5) business days after being advised by the payor financial institution that a check has been altered, forged, stolen, obtained through fraudulent or illegal means, negotiated without proper legal authority or represents the proceeds of illegal activity, the licensee shall notify the department and the district attorney for the judicial district in which the check was received. If a check is returned to the licensee by the payor financial institution for any of these reasons, the licensee may not release the check without consent of the district attorney or other investigating law enforcement authority.

(10) If a check is returned to a licensee from a payor financial institution because there are insufficient funds in or on deposit with the financial institution to pay the check, the licensee or any other person on behalf of the licensee shall not institute or initiate any criminal prosecution against the maker or drawer of the personal check with the intent and purpose of aiding in the collection of or enforcing the payment of the amount owed to the check casher by the maker or drawer of the check.

(11) Nothing in this article shall prohibit a licensee from issuing coupons to customers or potential customers which are redeemable against a deferred deposit transaction provided the redemption results in a financial benefit to the customer on current or future transactions.

SECTION 9. Section 75-67-516, Mississippi Code of 1972, is reenacted as follows:

75-67-516. A licensee shall not advertise, display or publish, or permit to be advertised, displayed or published,

in any manner whatsoever, any statement or representation that is false, misleading or deceptive.

SECTION 10. Section 75-67-517, Mississippi Code of 1972, is reenacted as follows:

75-67-517. Notwithstanding any other provision of law, no check cashing business licensed under this article shall directly or indirectly charge or collect fees for check cashing services in excess of the following:

(a) Three percent (3%) of the face amount of the check or Five Dollars (\$5.00), whichever is greater, for checks issued by the federal government, state government, or any agency of the state or agency of the state or federal government, or any county or municipality of this state.

(b) Ten percent (10%) of the face amount of the check or Five Dollars (\$5.00), whichever is greater, for personal checks.

(c) Five percent (5%) of the face amount of the check or Five Dollars (\$5.00), whichever is greater, for all other checks, or for money orders.

A licensee may not advance monies on the security of any personal check unless the presenter attests that the check being presented is drawn on a legitimate, open and active account. Except as provided by Section 75-67-519, any licensee who cashes a check for a fee shall deposit the check not later than three (3) business days from the date the check is cashed.

SECTION 11. Section 75-67-519, Mississippi Code of 1972, is reenacted as follows:

75-67-519. (1) (a) A licensee may delay the deposit of a personal check cashed for a customer with a face amount of not more than Two Hundred Fifty Dollars (\$250.00) for up to thirty (30) days under the provisions of this section.

(b) A licensee shall enter into a written agreement for a delayed deposit transaction of a personal check cashed for a customer with a face amount of more than Two Hundred Fifty Dollars (\$250.00) but not more than Five Hundred Dollars (\$500.00) for a period of at least twenty-eight (28) days but not more than thirty (30) days, as selected by the customer, under the provisions of this section, with the licensee having the option to deposit or collect the check.

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(2) The face amount of delayed deposit checks cashed under the provisions of this section shall not exceed Five Hundred Dollars (\$500.00), including the amount of the fees. Each customer is limited to a maximum amount of Five Hundred Dollars (\$500.00), including the amount of the fees, at any time.

(3) Each delayed deposit check cashed by a licensee shall be documented by a written agreement that has been signed by the customer and the licensee. The written agreement shall contain a statement of the total amount of any fees charged, expressed as a dollar amount and as an annual percentage rate. The written agreement shall authorize the licensee to delay deposit of the personal check with a face amount of not more than Two Hundred Fifty Dollars (\$250.00) until a specific date not later than thirty (30) days from the date of the transaction, and shall authorize the licensee to delay deposit or collection of the personal check with a face amount of more than Two Hundred Fifty Dollars (\$250.00) but not more than Five Hundred Dollars (\$500.00) in accordance with the written agreement.

(4) (a) A licensee shall not directly or indirectly charge any fee or other consideration in excess of Twenty Dollars (\$20.00) per One Hundred Dollars (\$100.00) advanced for cashing a delayed deposit check with a face amount of not more than Two Hundred Fifty Dollars (\$250.00).

(b) A licensee shall not directly or indirectly charge any fee or other consideration in excess of Twenty-one Dollars and Ninety-five Cents (\$21.95) per One Hundred Dollars (\$100.00) advanced for cashing a delayed deposit check with a face amount of more than Two Hundred Fifty Dollars (\$250.00) but not more than Five Hundred Dollars (\$500.00).

(c) In no event shall the amount of the checks cashed exceed Five Hundred Dollars (\$500.00), including the amount of the fee.

(5) No check cashed under the provisions of this section shall be repaid by the proceeds of another check cashed by the same licensee or any affiliate of the licensee. A licensee shall not renew or otherwise extend any delayed deposit check.

(6) A licensee shall not offer discount catalog sales or other similar inducements as part of a delayed deposit transaction.

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(7) A licensee shall not charge a late fee or collection fee on any deferred deposit transaction as a result of a returned check or the default by the customer in timely payment to the licensee. Notwithstanding anything to the contrary contained in this section, a licensee may charge a processing fee, not to exceed an amount authorized by the commissioner, for a check returned for any reason, including, without limitation, insufficient funds, closed account or stop payment, if such processing fee is authorized in the written agreement signed by the customer and licensee. In addition, if a licensee takes legal action against a customer to collect the amount of a delayed deposit check for which the licensee has not obtained payment and obtains a judgment against the customer for the amount of that check, the licensee shall also be entitled to any court-awarded fees.

(8) When cashing a delayed deposit check, a licensee may pay the customer in the form of the licensee's business check or a money order; however, no additional fee may then be charged by the licensee for cashing the licensee's business check or money order issued to the customer.

(9) Before entering any transactions under this section, a licensee shall provide to the customer a pamphlet prepared by the commissioner that describes general information about the transaction and about the customer's rights and responsibilities in the transaction, and that includes the consumer hotline phone number to the Mississippi Department of Banking and Consumer Finance and to the Mississippi Attorney General's office. Each agreement executed by a licensee shall include the following statement, which shall be located just above the signature line for the customer:

"In addition to agreeing to the terms of this agreement, I acknowledge, by my signature below, the receipt of a consumer education pamphlet regarding this transaction."

SECTION 12. Section 75-67-521, Mississippi Code of 1972, is reenacted as follows:

75-67-521. (1) The commissioner may, after notice and hearing, suspend or revoke a license if he finds that:

(a) The licensee, either knowingly, or without the exercise of due care to prevent the same, has violated any provision of this article;

(b) Any fact or condition exists which, if it had existed or had been known to exist at the time of the original application for the license, clearly would have justified the commissioner in refusing the license;

(c) The licensee has aided, abetted or conspired with an individual or person to circumvent or violate the requirement of this article;

(d) The licensee, or a legal or beneficial owner of the license, has been convicted of a felony, or has been convicted of a misdemeanor that the commissioner finds directly relates to the duties and responsibilities of the business of check cashing.

(2) The commissioner may conditionally license or place on probation a person whose license has been suspended or may reprimand a licensee for a violation of this article.

(3) The manner of giving notice and conducting a hearing as required by subsection (1) of this section shall be performed in accordance with procedures prescribed by the commissioner in rules or regulations adopted under Mississippi Administrative Procedures Law, Section 25-43-1 et seq.

(4) Any licensee may surrender any license by delivering it to the commissioner with written notice of its surrender, but that surrender shall not affect the licensee's civil or criminal liability for acts committed prior thereto.

(5) The commissioner may reinstate suspended licenses or issue new licenses to a person whose license or licenses have been revoked if no fact or condition then exists which clearly would have justified the commissioner in refusing originally to issue a license under this article.

(6) The appropriate local law enforcement agency shall be notified of any licensee who has his license suspended or revoked as provided by this article.

(7) The commissioner shall enforce the provisions of this section.

SECTION 13. Section 75-67-523, Mississippi Code of 1972, is reenacted as follows:

75-67-523. The commissioner, or his duly authorized representative, for the purpose of discovering violations of this article and for the purpose of determining whether persons are subject to the provisions of this article, may examine

persons licensed under this article and persons reasonably suspected by the commissioner of conducting business which requires a license under this article, including all relevant books, records and papers employed by those persons in the transaction of their business, and may summon witnesses and examine them under oath concerning matters relating to the business of those persons, or such other matters as may be relevant to the discovery of violations of this article, including without limiting the conduct of business without a license as required under this article.

SECTION 14. Section 75-67-525, Mississippi Code of 1972, is reenacted as follows:

75-67-525. (1) Any person who engages in the business of check cashing without first securing a license prescribed by this article shall be guilty of a misdemeanor and upon conviction thereof, shall be punishable by a fine not in excess of One Thousand Dollars (\$1,000.00) or by confinement in the county jail for not more than one (1) year, or both.

(2) Any person who engages in the business of check cashing without first securing a license prescribed by this article shall be liable for the full amount of the license fee, plus a penalty in an amount not to exceed Twenty-five Dollars (\$25.00) for each day that the person has engaged in the business without a license. All licensing fees and penalties shall be paid into the Consumer Finance Fund of the Department of Banking and Consumer Finance.

SECTION 15. Section 75-67-527, Mississippi Code of 1972, is reenacted as follows:

75-67-527. (1) In addition to any other penalty which may be applicable, any licensee or employee who willfully violates any provision of this article, or who willfully makes a false entry in any record specifically required by this article, shall be guilty of a misdemeanor and upon conviction thereof, shall be punishable by a fine not in excess of One Thousand Dollars (\$1,000.00) per violation or false entry.

(2) Compliance with the criminal provisions of this article shall be enforced by the appropriate law enforcement agency, which may exercise for that purpose any authority conferred upon the agency by law.

(3) When the commissioner has reasonable cause to believe that a person is violating any provision of this article,

the commissioner, in addition to and without prejudice to the authority provided elsewhere in this article, may enter an order requiring the person to stop or to refrain from the violation. The commissioner may sue in any circuit court of the state having jurisdiction and venue to enjoin the person from engaging in or continuing the violation or from doing any act in furtherance of the violation. In such an action, the court may enter an order or judgment awarding a preliminary or permanent injunction.

(4) The commissioner may impose a civil penalty against any licensee adjudged by the commissioner to be in violation of the provisions of this article. The civil penalty shall not exceed Five Hundred Dollars (\$500.00) per violation and shall be deposited into the Department of Banking and Consumer Finance, "Consumer Finance Fund."

(5) Any licensee convicted in the manner provided in this article shall forfeit the surety bond or deposit required in Section 75-67-509(c) and the amount of the bond or deposit shall be credited to the budget of the state or local agency which directly participated in the prosecution of the licensee, for the specific purpose of increasing law enforcement resources for that specific state or local agency. The bond or deposit shall be used to augment existing state and local law enforcement budgets and not to supplant them.

SECTION 16. Section 75-67-529, Mississippi Code of 1972, is reenacted as follows:

75-67-529. The provisions of this article are severable. If any part of this article is declared invalid or unconstitutional, that declaration shall not affect the parts which remain.

SECTION 17. Section 75-67-531, Mississippi Code of 1972, is reenacted as follows:

75-67-531. Check cashers operating check cashing locations in business as of July 1, 1998, shall have until September 30, 1998, to apply for a license under this article, and upon the approval of the application, the commissioner shall grant a license under this article.

SECTION 18. Section 75-67-533, Mississippi Code of 1972, is reenacted as follows:

75-67-533. The commissioner shall develop and provide any necessary forms to carry out the provisions of this article.

SECTION 19. Section 75-67-535, Mississippi Code of 1972, is reenacted as follows:

75-67-535. Municipalities in this state may enact ordinances which are in compliance with, but not more restrictive than, the provisions of this article. Any existing or future order, ordinance or regulation which conflicts with this provision shall be null and void.

SECTION 20. Section 75-67-537, Mississippi Code of 1972, is reenacted as follows:

75-67-537. The commissioner may employ the necessary full-time employees above the number of permanent full-time employees authorized for the department for fiscal year 1999, to carry out and enforce the provisions of this article. The commissioner may also expend the necessary funds to equip and provide necessary travel expenses for those employees.

SECTION 21. Section 75-67-539, Mississippi Code of 1972, which is a repealer on the Mississippi Check Cashers Act, is repealed.

SECTION 22. This act shall take effect and be in force from and after its passage.

Mississippi Legislature

2013 Regular Session

House Bill 613

Description: Crimes; prohibit distribution of alternative nicotine products to minors.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2013

Chapter Number: 355

History of Actions:

- | | | | |
|----|-------|-----|-----------------------------------|
| 1 | 01/21 | (H) | Referred To Judiciary A |
| 2 | 01/28 | (H) | Title Suff Do Pass |
| 3 | 01/29 | (H) | Passed {Vote} |
| 4 | 01/30 | (H) | Transmitted To Senate |
| 5 | 02/15 | (S) | Referred To Judiciary, Division B |
| 6 | 02/27 | (S) | Title Suff Do Pass |
| 7 | 03/07 | (S) | Passed {Vote} |
| 8 | 03/08 | (S) | Transmitted To House |
| 9 | 03/12 | (S) | Enrolled Bill Signed |
| 10 | 03/12 | (H) | Enrolled Bill Signed |
| 11 | 03/18 | | Approved by Governor |

----- **Additional Information** -----

House Committee: Judiciary A

Senate Committee: Judiciary, Division B

Principal Author: Smith (39th)

Title: AN ACT TO PROHIBIT THE DISTRIBUTION OF ALTERNATIVE NICOTINE PRODUCTS TO MINORS; TO DEFINE CERTAIN TERMS; TO PROVIDE PENALTIES FOR VIOLATIONS; TO REQUIRE AGE VERIFICATION; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI HB 613

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Judiciary A

By: Representative Smith (39th)

House Bill 613

(As Sent to Governor)

AN ACT TO PROHIBIT THE DISTRIBUTION OF ALTERNATIVE NICOTINE PRODUCTS TO MINORS; TO DEFINE CERTAIN TERMS; TO PROVIDE PENALTIES FOR VIOLATIONS; TO REQUIRE AGE VERIFICATION; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. (1) For the purposes of this section:

(a) (i) "Alternative nicotine product" means:

1. An electronic cigarette; or
2. Any other product that consists of or contains nicotine that can be ingested into the body by chewing, smoking, absorbing, dissolving, inhaling or by any other means.

(ii) Alternative nicotine product does not include:

1. A cigarette or other tobacco product as defined in Section 97-32-3;
 2. A product that is a drug under 21 USCS 321(g) (1);
 3. A product that is a device under 21 USCS 321(h);
- or
4. A combination product described in 21 USCS 353(g).

(b) (i) "Electronic cigarette" means an electronic product or device that produces a vapor that delivers nicotine or other substances to the person inhaling from the device to simulate smoking, and is likely to be offered to, or purchased by, consumers as an electronic cigarette, electronic cigar, electronic cigarillo or electronic pipe.

(ii) Electronic cigarette does not include:

1. A cigarette or other tobacco products as defined in Section 97-32-3;
2. A product that is a drug under 21 USCS 321(g) (1);

3. A product that is a device under 21 USCS 321(h);
or

4. A combination product described in 21 USCS 353(g).

(2) No person, either directly or indirectly by an agent or employee, or by a vending machine owned by the person or located in the person's establishment, shall sell, offer for sale, give or furnish any alternative nicotine product, or any cartridge or component of an alternative nicotine product, to an individual under eighteen (18) years of age. A violation of this subsection is punishable as follows:

(a) By a fine of Fifty Dollars (\$50.00) for a first offense;

(b) By a fine of Seventy-Five Dollars (\$75.00) for a second offense; and

(c) By a fine of One Hundred Dollars (\$100.00) for a third or subsequent offense.

(3) Before selling, offering for sale, giving or furnishing an alternative nicotine product, or any cartridge or component of an alternative nicotine product to an individual, a person shall verify that the individual is at least eighteen (18) years of age by:

(a) Examining from any individual that appears to be under twenty-seven (27) years of age a government-issued photographic identification that establishes the individual is at least eighteen (18) years of age; or

(b) For sales made through the Internet or other remote sales methods, performing an age verification through an independent, third-party age verification service that compares information available from public records to the personal information entered by the individual during the ordering process that establishes the individual is eighteen (18) years of age or older.

SECTION 2. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

House Bill 686

Description: Computer fraud; clarify definition of computer network.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2013

Chapter Number: 367

History of Actions:

- | | | | |
|----|-------|-----|-----------------------------------|
| 1 | 01/21 | (H) | Referred To Judiciary B |
| 2 | 01/31 | (H) | Title Suff Do Pass |
| 3 | 02/13 | (H) | Passed {Vote} |
| 4 | 02/14 | (H) | Transmitted To Senate |
| 5 | 02/15 | (S) | Referred To Judiciary, Division B |
| 6 | 03/05 | (S) | Title Suff Do Pass |
| 7 | 03/07 | (S) | Passed {Vote} |
| 8 | 03/08 | (S) | Transmitted To House |
| 9 | 03/12 | (S) | Enrolled Bill Signed |
| 10 | 03/12 | (H) | Enrolled Bill Signed |
| 11 | 03/18 | | Approved by Governor |

Code Section: A 097-0045-0003

----- Additional Information -----

House Committee: Judiciary B

Senate Committee: Judiciary, Division B

Principal Author: Buck (72nd)

Additional Authors: Buck (5th)

Title: AN ACT TO AMEND SECTION 97-45-3, MISSISSIPPI CODE OF 1972, TO CLARIFY THE DEFINITION OF COMPUTER NETWORK; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI HB 686

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Judiciary B

By: Representatives Buck (72nd), Buck (5th)

House Bill 686

(As Sent to Governor)

AN ACT TO AMEND SECTION 97-45-3, MISSISSIPPI CODE OF 1972, TO CLARIFY THE DEFINITION OF COMPUTER NETWORK; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 97-45-3, Mississippi Code of 1972, is amended as follows:

97-45-3. (1) Computer fraud is the accessing or causing to be accessed of any computer, computer system, computer network or any part thereof with the intent to:

(a) Defraud;

(b) Obtain money, property or services by means of false or fraudulent conduct, practices or representations; or through the false or fraudulent alteration, deletion or insertion of programs or data; or

(c) Insert or attach or knowingly create the opportunity for an unknowing and unwanted insertion or attachment of a set of instructions or a computer program into a computer program, computer, computer system, or computer network, that is intended to acquire, alter, damage, delete, disrupt, or destroy property or otherwise use the services of a computer program, computer, computer system or computer network.

(2) Whoever commits the offense of computer fraud shall be punished, upon conviction, by a fine of not more than One Thousand Dollars (\$1,000.00), or by imprisonment for not more than six (6) months, or by both such fine and imprisonment. However, when the damage or loss or attempted damage or loss amounts to a value of Five Hundred Dollars (\$500.00) or more, the offender may be punished, upon conviction, by a fine of not more than Ten Thousand Dollars (\$10,000.00) or by imprisonment for not more than five (5) years, or by both such fine and imprisonment.

2013 GENERAL LAWS OF MISSISSIPPI HB 686

(3) The definition of the term "computer network" includes the Internet, as defined in Section 230 of Title II of the Communications Act of 1934, Chapter 652, 110 Stat. 137, codified at 47 USCS 230.

SECTION 2. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

House Bill 702

Description: MS Highway 63; designate segment of in Greene County as "Senator George Cecil McLeod, Jr., Memorial Highway."

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2013

Chapter Number: 335

History of Actions:

- | | | | |
|----|-------|-----|---|
| 1 | 01/21 | (H) | Referred To Transportation |
| 2 | 01/30 | (H) | Title Suff Do Pass |
| 3 | 02/07 | (H) | Passed {Vote} |
| 4 | 02/08 | (H) | Transmitted To Senate |
| 5 | 02/12 | (S) | Referred To Highways and Transportation |
| 6 | 02/26 | (S) | Title Suff Do Pass |
| 7 | 03/07 | (S) | Passed {Vote} |
| 8 | 03/08 | (S) | Transmitted To House |
| 9 | 03/12 | (S) | Enrolled Bill Signed |
| 10 | 03/12 | (H) | Enrolled Bill Signed |
| 11 | 03/14 | | Approved by Governor |

----- **Additional Information** -----

House Committee: Transportation

Senate Committee: Highways and Transportation

Principal Author: DeBar

Additional Authors: Barton, McLeod

Title: AN ACT TO DESIGNATE A CERTAIN SEGMENT OF MISSISSIPPI HIGHWAY 63 IN GREENE COUNTY AS THE "SENATOR GEORGE CECIL MCLEOD, JR., MEMORIAL HIGHWAY"; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI HB 702

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Transportation

By: Representatives DeBar, Barton, McLeod

House Bill 702

(As Sent to Governor)

AN ACT TO DESIGNATE A CERTAIN SEGMENT OF MISSISSIPPI HIGHWAY 63 IN GREENE COUNTY AS THE "SENATOR GEORGE CECIL MCLEOD, JR., MEMORIAL HIGHWAY"; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. (1) That segment of Mississippi Highway 63 beginning at the boundary between George County and Greene County and extending northerly to the overpass at Mississippi Highway 163 is designated and shall be known as the "Senator George Cecil McLeod, Jr., Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SECTION 2. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

House Bill 710

Description: Crime Victims' Compensation Act; revisions to grounds for denying compensation.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2013

Chapter Number: 376

History of Actions:

- | | | | |
|----|-------|-----|-----------------------------------|
| 1 | 01/21 | (H) | Referred To Judiciary B |
| 2 | 01/31 | (H) | Title Suff Do Pass |
| 3 | 02/13 | (H) | Passed {Vote} |
| 4 | 02/14 | (H) | Transmitted To Senate |
| 5 | 02/15 | (S) | Referred To Judiciary, Division B |
| 6 | 03/05 | (S) | Title Suff Do Pass |
| 7 | 03/07 | (S) | Passed {Vote} |
| 8 | 03/08 | (S) | Transmitted To House |
| 9 | 03/12 | (H) | Enrolled Bill Signed |
| 10 | 03/12 | (S) | Enrolled Bill Signed |
| 11 | 03/20 | | Approved by Governor |

Code Section: A 099-0041-0017

----- Additional Information -----

House Committee: Judiciary B

Senate Committee: Judiciary, Division B

Principal Author: Buck (72nd)

Additional Authors: Buck (5th), Dixon

Title: AN ACT TO AMEND SECTION 99-41-17, MISSISSIPPI CODE OF 1972, TO REVISE GROUNDS FOR WHICH COMPENSATION SHALL NOT BE AWARDED UNDER THE MISSISSIPPI CRIME VICTIMS' COMPENSATION ACT; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Judiciary B

By: Representatives Buck (72nd), Buck (5th), Dixon

House Bill 710

(As Sent to Governor)

AN ACT TO AMEND SECTION 99-41-17, MISSISSIPPI CODE OF 1972, TO REVISE GROUNDS FOR WHICH COMPENSATION SHALL NOT BE AWARDED UNDER THE MISSISSIPPI CRIME VICTIMS' COMPENSATION ACT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 99-41-17, Mississippi Code of 1972, is amended as follows:

99-41-17. (1) Compensation shall not be awarded under this chapter:

(a) Unless the criminally injurious conduct occurred after July 1, 1991;

(b) Unless the claim has been filed with the director within thirty-six (36) months after the crime occurred, or in cases of child sexual abuse, within thirty-six (36) months after the crime was reported to law enforcement or the Department of Human Services, but in no event later than the victim's twenty-fifth birthday. For good cause, the director may extend the time period allowed for filing a claim for an additional period not to exceed twelve (12) months;

(c) To a claimant or victim who was the offender or an accomplice to the offender, or, except in cases of children under the age of consent as specified in Section 97-3-65, 97-3-97 or 97-5-23, Mississippi Code of 1972, who encouraged or in any way knowingly participated in criminally injurious conduct;

(d) To another person, if the award would unjustly benefit the offender or accomplice;

(e) Unless the criminally injurious conduct resulting in injury or death was reported to a law enforcement officer within seventy-two (72) hours after its occurrence or unless it is found that there was good cause for the failure to report within such time;

(f) To any claimant or victim when the injury or death occurred while the victim was confined in any federal, state, county or city jail or correctional facility;

(g) If the victim was injured as a result of the operation of a motor vehicle, boat or airplane, unless the vehicle was used by the offender (i) while under the influence of alcohol or drugs, (ii) as a weapon in the deliberate attempt to injure or cause the death of the victim, (iii) in a hit-and-run accident by leaving the scene of an accident as specified in Section 63-3-401, * * * (iv) to flee apprehension by law enforcement as specified in Sections 97-9-72 and 97-9-73, or (v) causes any injury to a child who is in the process of boarding or exiting a school bus in the course of a violation of Section 63-3-615;

(h) If, following the filing of an application, the claimant failed to take further steps as required by the division to support the application within forty-five (45) days of such request made by the director or failed to otherwise cooperate with requests of the director to determine eligibility, unless failure to provide information was beyond the control of the claimant;

(i) To a claimant or victim who, subsequent to the injury for which application is made, is convicted of any felony, and the conviction becomes known to the director;

(j) To any claimant or victim who has been* * * under the actual or constructive supervision of a department of corrections for a felony conviction within five (5) years prior to the injury or death for which application has been made;

(k) To any claimant or victim who, at the time of the criminally injurious conduct upon which the claim for compensation is based, engaged in conduct unrelated to the crime upon which the claim for compensation is based that either was (i) a felony, or (ii) a delinquent act which, if committed by an adult, would constitute a felony;

(l) To any claimant or victim who knowingly furnishes any false or misleading information or knowingly fails or omits to disclose a material fact or circumstance.

(2) Compensation otherwise payable to a claimant shall be diminished to the extent:

2013 GENERAL LAWS OF MISSISSIPPI HB 710

(a) That the economic loss is recouped from other sources, including collateral sources; and

(b) Of the degree of responsibility for the cause of injury or death attributable to the victim or claimant.

(3) Upon a finding that the claimant or victim has not fully cooperated with appropriate law enforcement agencies and prosecuting attorneys, an award of compensation may be denied, withdrawn or reduced.

(4) Compensation otherwise payable to a claimant or victim may be denied or reduced to a claimant or victim who, at the time of the crime upon which the claim for compensation is based, was engaging in or attempting to engage in other unlawful activity unrelated to the crime upon which the claim for compensation is based.

SECTION 2. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

House Bill 720

Description: Child support; change reference to Uniform Support Act.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2013

Chapter Number: 380

History of Actions:

- 1 01/21 (H) Referred To Judiciary A
- 2 02/04 (H) Title Suff Do Pass
- 3 02/07 (H) Passed {Vote}
- 4 02/08 (H) Transmitted To Senate
- 5 02/12 (S) Referred To Public Health and Welfare;
Judiciary, Division A
- 6 02/27 (S) DR - TSDP: PH To JA
- 7 02/28 (S) Title Suff Do Pass
- 8 03/07 (S) Passed {Vote}
- 9 03/08 (S) Transmitted To House
- 10 03/12 (H) Enrolled Bill Signed
- 11 03/12 (S) Enrolled Bill Signed
- 12 03/20 Approved by Governor

Code Section: A 093-0009-0015

----- Additional Information -----

House Committee: Judiciary A

Senate Committee: Public Health and Welfare, Judiciary, Division A

Principal Author: Mims

Title: AN ACT TO AMEND SECTION 93-9-15, MISSISSIPPI CODE OF 1972, TO CHANGE THE REFERENCE FROM THE UNIFORM RECIPROCAL ENFORCEMENT OF SUPPORT ACT TO THE UNIFORM INTERSTATE FAMILY SUPPORT ACT; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Judiciary A

By: Representative Mims

House Bill 720

(As Sent to Governor)

AN ACT TO AMEND SECTION 93-9-15, MISSISSIPPI CODE OF 1972, TO CHANGE THE REFERENCE FROM THE UNIFORM RECIPROCAL ENFORCEMENT OF SUPPORT ACT TO THE UNIFORM INTERSTATE FAMILY SUPPORT ACT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 93-9-15, Mississippi Code of 1972, is amended as follows:

93-9-15. The county court, the circuit court, or the chancery court has jurisdiction of an action under Sections 93-9-1 through 93-9-49, and all remedies for the enforcement of orders for expenses of pregnancy and confinement for a wife, or for education, necessary support and maintenance, or funeral expenses for legitimate children shall apply. The defendant must defend the cause in whichever court the action is commenced. The court has continuing jurisdiction to modify or revoke an order and to increase or decrease amounts fixed by order for future education and necessary support and maintenance. All remedies under the* * * Uniform Interstate Family Support Act, and amendments thereto, are available for enforcement of duties of support and maintenance under Sections 93-9-1 through 93-9-49. Parties to an action to establish paternity shall not be entitled to a jury trial.

SECTION 2. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

House Bill 738

Description: Highways; designate certain memorial highway and scenic byway.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: Passage

Chapter Number: 337

History of Actions:

- 1 01/21 (H) Referred To Transportation
- 2 01/30 (H) Title Suff Do Pass Comm Sub
- 3 02/07 (H) Committee Substitute Adopted
- 4 02/07 (H) Passed {Vote}
- 5 02/11 (H) Transmitted To Senate
- 6 02/12 (S) Referred To Highways and Transportation
- 7 02/26 (S) Title Suff Do Pass
- 8 03/07 (S) Passed {Vote}
- 9 03/08 (S) Transmitted To House
- 10 03/12 (S) Enrolled Bill Signed
- 11 03/12 (H) Enrolled Bill Signed
- 12 03/14 Approved by Governor

----- **Additional Information** -----

House Committee: Transportation

Senate Committee: Highways and Transportation

Principal Author: Nelson

Additional Authors: Alday, Hamilton, Jennings, Kinkade, Mettetal

Title: AN ACT TO DESIGNATE CERTAIN SEGMENTS OF ROAD IN DESOTO COUNTY AS AN OFFICIAL MISSISSIPPI SCENIC BYWAY TO BE KNOWN AS THE "DELTA BLUFFS SCENIC BYWAY"; TO DESIGNATE THAT SEGMENT OF MISSISSIPPI HIGHWAY 6 WITHIN PANOLA COUNTY, MISSISSIPPI, AS THE "MILITARY ORDER OF THE PURPLE HEART HIGHWAY"; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Transportation

By: Representatives Nelson, Alday, Hamilton, Jennings,
Kinkade, Mettetal

House Bill 738

(As Sent to Governor)

AN ACT TO DESIGNATE CERTAIN SEGMENTS OF ROAD IN DESOTO COUNTY AS AN OFFICIAL MISSISSIPPI SCENIC BYWAY TO BE KNOWN AS THE "DELTA BLUFFS SCENIC BYWAY"; TO DESIGNATE THAT SEGMENT OF MISSISSIPPI HIGHWAY 6 WITHIN PANOLA COUNTY, MISSISSIPPI, AS THE "MILITARY ORDER OF THE PURPLE HEART HIGHWAY"; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. The following highways, roads or streets located in the State of Mississippi are hereby designated in the following three (3) segments as an official Mississippi Scenic Byway to be known as the "Delta Bluffs Scenic Byway" pursuant to Section 65-41-1 et seq.:

(a) Northern Branch: Beginning at the intersection of Austin Road and Mississippi Highway 301 and continuing westward to the intersection of Delta View Road and Austin Road; then north along Delta View Road to the Great River Road National Scenic Byway (connectivity through the Town of Walls via Delta View Road, U.S. Highway 161 and 2nd Street);

(b) Central Branch: Beginning at the intersection of Mississippi Highway 301 and Austin Road and continuing south along Mississippi Highway 301 to Arkabutla Lake; and

(c) East-West Branch: Beginning at the intersection of Old Mississippi Highway 304 and Interstate 55 in Hernando and continuing westward to Bluff Road.

SECTION 2. (1) That segment of Mississippi Highway 6 within Panola County, Mississippi, shall be known and designated as the "Military Order of the Purple Heart Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

SECTION 3. This act shall take effect and be in force from and after its passage.

Mississippi Legislature

2013 Regular Session

House Bill 751

Description: Bureau of Plant Industry; remove requirement for notarization of quarterly seed sale reports & revise administrative procedures relating to.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Three/Fifths

Effective date: July 1, 2013

Chapter Number: 407

History of Actions:

- | | | | |
|----|-------|-----|-------------------------|
| 1 | 01/21 | (H) | Referred To Agriculture |
| 2 | 01/31 | (H) | Title Suff Do Pass |
| 3 | 02/07 | (H) | Passed {Vote} |
| 4 | 02/08 | (H) | Transmitted To Senate |
| 5 | 02/15 | (S) | Referred To Agriculture |
| 6 | 02/25 | (S) | Title Suff Do Pass |
| 7 | 03/11 | (S) | Passed {Vote} |
| 8 | 03/12 | (S) | Transmitted To House |
| 9 | 03/14 | (S) | Enrolled Bill Signed |
| 10 | 03/14 | (H) | Enrolled Bill Signed |
| 11 | 03/20 | | Approved by Governor |

Code Section: A 069-0003-0006, A 069-0003-0025, A 069-0003-0029, A 069-0025-0051

----- **Additional Information** -----

House Committee: Agriculture

Senate Committee: Agriculture

Principal Author: Sullivan

Title: AN ACT TO AMEND SECTION 69-3-6, MISSISSIPPI CODE OF 1972, TO REMOVE THE NOTARIZATION REQUIREMENT FOR QUARTERLY REPORTS TO BE PROVIDED TO THE DEPARTMENT OF AGRICULTURE AND COMMERCE ON THE TOTAL POUNDAGE OF ALL SEED SALES DURING THE QUARTER; TO AMEND SECTION 69-3-25, MISSISSIPPI CODE OF 1972, TO INCREASE THE PENALTY IMPOSED FOR VIOLATIONS OF THE SEED LAW; TO AMEND SECTION

69-3-29, MISSISSIPPI CODE OF 1972, TO REVISE THE ADMINISTRATIVE HEARING PROCEDURES FOR VIOLATIONS OF THE LAW TO ADHERE TO THE PROVISIONS FOR ADMINISTRATIVE HEARINGS CONDUCTED BY THE BUREAU OF PLANT INDUSTRY; TO AMEND SECTION 69-25-51, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PRECEDING PROVISION; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI HB 751

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Agriculture

By: Representative Sullivan

House Bill 751

(As Sent to Governor)

AN ACT TO AMEND SECTION 69-3-6, MISSISSIPPI CODE OF 1972, TO REMOVE THE NOTARIZATION REQUIREMENT FOR QUARTERLY REPORTS TO BE PROVIDED TO THE DEPARTMENT OF AGRICULTURE AND COMMERCE ON THE TOTAL POUNDAGE OF ALL SEED SALES DURING THE QUARTER; TO AMEND SECTION 69-3-25, MISSISSIPPI CODE OF 1972, TO INCREASE THE PENALTY IMPOSED FOR VIOLATIONS OF THE SEED LAW; TO AMEND SECTION 69-3-29, MISSISSIPPI CODE OF 1972, TO REVISE THE ADMINISTRATIVE HEARING PROCEDURES FOR VIOLATIONS OF THE LAW TO ADHERE TO THE PROVISIONS FOR ADMINISTRATIVE HEARINGS CONDUCTED BY THE BUREAU OF PLANT INDUSTRY; TO AMEND SECTION 69-25-51, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PRECEDING PROVISION; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 69-3-6, Mississippi Code of 1972, is amended as follows:

69-3-6. (1) The department may establish seed inspection fees, prescribe and furnish forms, and require the filing of reports necessary for the payment of the inspection fees. The department may inspect the record of any seedsman during the normal hours of business operation as it deems necessary.

(2) All fees collected under this section shall be deposited into a special fund in the State Treasury. The department may expend the monies in the fund by an annual appropriation approved by the Legislature for the support of the Seed Division of the Bureau of Plant Industry.

(3) Every seedsman who sells or distributes seed for sale, whether in bulk or in containers, within or into Mississippi for planting purposes, shall be assessed a seed inspection fee as required by the department.

(4) Every seedsman must:

(a) Pay an inspection fee on the total number of pounds of seed sold or otherwise distributed for sale within or into

the state. Payment of the seed inspection fees shall be the responsibility of the seedsman initiating the first sale of seed within or into the state;

(b) Maintain records, as required by the department, that accurately reflect the total pounds of seed subject to the fees that are handled, sold or offered, or distributed for sale;

(c) File quarterly* * * reports on forms provided or approved by the department, covering the total pounds of all sales of seed subject to the fee and sold during the preceding quarter. The reports and fees due shall be filed with the department no later than thirty (30) days following the end of each calendar quarter.

(5) A seedsman who does not file the quarterly report by the due date shall pay a penalty fee as provided by the regulations of the department. The penalty fee shall be waived if the seedsman obtains prior written approval from the department for a late filing and complies with the late filing requirements.

(6) If a seedsman does not comply with all the requirements of this section, the commissioner may suspend the seedsman's permit until the seedsman is in compliance.

SECTION 2. Section 69-3-25, Mississippi Code of 1972, is amended as follows:

69-3-25. Any person who* * * violates any provision of this* * * article or the rules and regulations made and promulgated thereunder shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall pay a fine of not* * * more than One Thousand Dollars (\$1,000.00), or by imprisonment for not more than one (1) year, or by both such fine and imprisonment.

SECTION 3. Section 69-3-29, Mississippi Code of 1972, is amended as follows:

69-3-29. * * *

(1)

Whenever it has been alleged that any person or other entity has violated any of the provisions of this article, or any of the rules or regulations promulgated hereunder, the matter shall be conducted as an administrative proceeding under the terms and conditions of Sections 69-25-51 through 69-25-63, and where found culpable, such person or other entity shall

be subject to the administrative and civil penalties provided therein.

(* * * 2) The procedures described herein shall not apply to seed arbitration claims which are described in Section s* * * 69-3-20 through 69-3-22, as such claims shall be governed by the procedures set forth in * * * those statute s.

SECTION 4. Section 69-25-51, Mississippi Code of 1972, is amended as follows:

69-25-51. (1) When any administrative allegation or charge is made against a person for violating the rules and regulations of the Bureau of Plant Industry of the Mississippi Department of Agriculture and Commerce or the laws under Sections 69-3-1 through 69-3-29, Sections 69-19-1 through 69-19-15, Sections 69-21-101 through 69-21-128, Sections 69-23-1 through 69-23-135, Sections 69-25-1 through 69-25-47 or Sections 69-25-101 through 69-25-109, Mississippi Code of 1972, the Director of the Bureau of Plant Industry, or his designee, shall act as the reviewing officer. The complaint must be in writing, signed by the person making the charge, and filed in the Office of the Bureau of Plant Industry. The department shall send a copy of the complaint and any supporting documents to the person accused along with a summons requiring the accused to respond to the allegations within thirty (30) days. The notification shall be accomplished by any of the methods provided for in Rule 4 of the Mississippi Rules of Civil Procedure or by certified mail. If the accused does not respond within the thirty-day period, he shall be considered to be in default. Upon receipt of the response and any supporting documents from the accused, the reviewing officer shall determine the merits of the complaint. The reviewing officer may meet informally with the accused and discuss the alleged violation with him.

(2) If the reviewing officer determines that the complaint lacks merit, he may dismiss the complaint.

(3) If the reviewing officer determines that there is substantial evidence that a violation has occurred or if the accused admits to the truth of the allegations upon which the complaint is based, the reviewing officer may impose an appropriate penalty on the accused, which may be any or all of the following:

(a) Issue a warning letter.

(b) Suspend, modify, deny, cancel or revoke any license or permit granted by the department to the accused.

(c) Issue a stop sale order with regard to any pesticide, plant or other material regulated by the department that is mislabeled or otherwise not in compliance with applicable law or regulations.

(d) Require the accused to relabel any pesticide, plant or other material regulated by the department that is mislabeled.

(e) Seize any pesticide, plant or other material regulated by the department and sell, destroy or otherwise dispose of the material and apply the proceeds of the sale to the state's expenses and any fees or penalties levied under this article.

(f) Refuse to register, cancel or suspend the registration of a pesticide, plant or other material that is not in compliance with any applicable law or regulation.

(g) Levy a civil penalty in an amount not to exceed Five Thousand Dollars (\$5,000.00) for each violation.

In determining the amount of the penalty, the reviewing officer shall consider the appropriateness of the penalty for the particular violation, the effect of the penalty on the person's ability to continue in business and the gravity of the violation.

(4) If the accused requests a hearing with the department, in writing, within thirty (30) days from receipt of the decision of the reviewing officer, the commissioner shall appoint three (3) members of the advisory board to the Bureau of Plant Industry to act as a hearing committee and a hearing shall be scheduled. If the accused fails to request a hearing within the thirty-day period, the decision of the reviewing officer is final.

SECTION 5. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

House Bill 757

Description: U.S. Highway 184; designate segment of in Lawrence County as “Lawrence County Veterans Highway.”

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2013

Chapter Number: 374

History of Actions:

- | | | | |
|----|-------|-----|---|
| 1 | 01/21 | (H) | Referred To Transportation |
| 2 | 01/31 | (H) | Title Suff Do Pass |
| 3 | 02/13 | (H) | Read the Third Time |
| 4 | 02/14 | (H) | Passed {Vote} |
| 5 | 02/15 | (H) | Transmitted To Senate |
| 6 | 02/19 | (S) | Referred To Highways and Transportation |
| 7 | 02/26 | (S) | Title Suff Do Pass |
| 8 | 03/07 | (S) | Passed {Vote} |
| 9 | 03/08 | (S) | Transmitted To House |
| 10 | 03/12 | (H) | Enrolled Bill Signed |
| 11 | 03/12 | (S) | Enrolled Bill Signed |
| 12 | 03/20 | | Approved by Governor |

----- Additional Information -----

House Committee: Transportation

Senate Committee: Highways and Transportation

Principal Author: Evans (91st)

Additional Authors: Baria, Calhoun, Clarke, Hines, Holloway, Lane, Steverson, Straughter, Moak

Title: AN ACT TO DESIGNATE A CERTAIN SEGMENT OF U.S. HIGHWAY 184 IN LAWRENCE COUNTY AS THE “LAWRENCE COUNTY VETERANS HIGHWAY”; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI HB 757

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Transportation

By: Representatives Evans (91st), Baria, Calhoun, Clarke,
Hines, Holloway, Lane, Steverson, Straughter, Moak

House Bill 757

(As Sent to Governor)

AN ACT TO DESIGNATE A CERTAIN SEGMENT OF U.S. HIGHWAY 184
IN LAWRENCE COUNTY AS THE "LAWRENCE COUNTY VETERANS HIGHWAY";
AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. (1) That segment of U.S. Highway 184 beginning
at the intersection with U.S. Highway 84 west of the City
of Monticello and extending to the intersection with U.S.
Highway 84 east of the City of Monticello is designated and
shall be known as the "Lawrence County Veterans Highway."

(2) The Mississippi Department of Transportation shall
erect and maintain appropriate signs along and approaching
the segment of highway described in subsection (1) of this
section.

SECTION 2. This act shall take effect and be in force from
and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

House Bill 770

Description: MS Fair Commission; authorize to contract with DFA for providing law enforcement control at Mississippi State Fairgrounds Complex.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: Passage

Chapter Number: 357

History of Actions:

- | | | | |
|----|-------|-----|-------------------------|
| 1 | 01/21 | (H) | Referred To Agriculture |
| 2 | 01/29 | (H) | Title Suff Do Pass |
| 3 | 01/31 | (H) | Passed {Vote} |
| 4 | 02/01 | (H) | Transmitted To Senate |
| 5 | 02/15 | (S) | Referred To Agriculture |
| 6 | 02/25 | (S) | Title Suff Do Pass |
| 7 | 03/07 | (S) | Passed {Vote} |
| 8 | 03/08 | (S) | Transmitted To House |
| 9 | 03/12 | (S) | Enrolled Bill Signed |
| 10 | 03/12 | (H) | Enrolled Bill Signed |
| 11 | 03/18 | | Approved by Governor |

Code Section: A 029-0005-0002, A 029-0005-0077, A 029-0005-0081

----- **Additional Information** -----

House Committee: Agriculture

Senate Committee: Agriculture

Principal Author: Sullivan

Additional Authors: Weathersby, Dixon

Title: AN ACT TO AUTHORIZE THE MISSISSIPPI FAIR COMMISSION TO HIRE AND DESIGNATE LAW ENFORCEMENT OFFICERS ON A CONTRACTUAL BASIS TO PROVIDE SECURITY AND ENFORCE LAWS OF THE STATE ON THE MISSISSIPPI STATE FAIRGROUNDS COMPLEX; TO REQUIRE SUCH OFFICERS TO COMPLETE THE LAW ENFORCEMENT TRAINING ACADEMY; TO REQUIRE

THE COMMISSION TO MAINTAIN A COMPLETE RECORD OF ALL LAW ENFORCEMENT TRAINING OF EACH EMPLOYEE IN HIS OR HER RECORD OF EMPLOYMENT; TO PRESCRIBE THE POWERS, DUTIES AND REQUIRED RESPONSIBILITIES OF SUCH OFFICERS; TO AMEND SECTIONS 29-5-2, 29-5-77 AND 29-5-81, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PRECEDING PROVISIONS; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI HB 770

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Agriculture

By: Representatives Sullivan, Weathersby, Dixon

House Bill 770
(As Sent to Governor)

AN ACT TO AUTHORIZE THE MISSISSIPPI FAIR COMMISSION TO HIRE AND DESIGNATE LAW ENFORCEMENT OFFICERS ON A CONTRACTUAL BASIS TO PROVIDE SECURITY AND ENFORCE LAWS OF THE STATE ON THE MISSISSIPPI STATE FAIRGROUNDS COMPLEX; TO REQUIRE SUCH OFFICERS TO COMPLETE THE LAW ENFORCEMENT TRAINING ACADEMY; TO REQUIRE THE COMMISSION TO MAINTAIN A COMPLETE RECORD OF ALL LAW ENFORCEMENT TRAINING OF EACH EMPLOYEE IN HIS OR HER RECORD OF EMPLOYMENT; TO PRESCRIBE THE POWERS, DUTIES AND REQUIRED RESPONSIBILITIES OF SUCH OFFICERS; TO AMEND SECTIONS 29-5-2, 29-5-77 AND 29-5-81, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PRECEDING PROVISIONS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. (1) The Mississippi Fair Commission is authorized to hire and designate area law enforcement officers on a contractual basis to provide security and to enforce all laws of the State of Mississippi on the Mississippi State Fairgrounds Complex. All officers must have attended and satisfactorily completed the training course required for law enforcement officers at the Law Enforcement Officer's Training Academy or an equivalent facility. All officers must be current with this certification. A complete record of all law enforcement training of each employee will be maintained in each employee's record of employment. Furthermore, the Mississippi Fair Commission may enter into a contract with any certified law enforcement officer to provide security to the Mississippi Fair Commission with jurisdiction to enforce all laws of the State of Mississippi on property known as the "Mississippi State Fairgrounds Complex" and any and all of its outlying buildings and property.

(2) (a) All officers while in performance of their duty on the premises or at any of the facilities under the direction or control of the Mississippi State Fair Commission and public property immediately adjacent to such facilities shall:

(i) Be required to dress in uniforms prescribed by the Mississippi State Fair Commission; and

(ii) Be authorized to carry weapons.

(b) Employees designated as officers shall be duly sworn and vested with authority to bear arms and make arrests, and shall exercise primarily the responsibilities of the prevention and detection of crime, the apprehension of criminals, and the enforcement of the ordinances and policies of the Mississippi State Fair Commission, a political subdivision of the State of Mississippi. Employees designated as such officers shall be considered law enforcement officers within the meaning of Section 45-6-3.

SECTION 2. Section 29-5-2, Mississippi Code of 1972, is amended as follows:

29-5-2. The duties of the Department of Finance and Administration shall be as follows:

(a) (i) To exercise general supervision and care over and keep in good condition the following state property located in the City of Jackson: the New State Capitol Building, the Woolfolk State Office Building, the Carroll Gartin Justice Building, the Walter Sillers Office Building, the War Veterans' Memorial Building, the Charlotte Capers Building, the William F. Winter Archives and History Building, the Ike Sanford Veterans Affairs Building, the Old State Capitol Building, the Governor's Mansion, the Heber Ladner Building, the Burroughs Building, the Robert E. Lee Office Building, the Robert E. Lee Parking Garage, the Manship House Restoration and Visitor Center, the State Records Center, the Robert G. Clark, Jr. Building, the Mississippi State Fairgrounds Complex, and all other properties acquired in the same transaction at the time of the purchase of the Robert E. Lee Hotel property from the First Federal Savings and Loan Association of Jackson, Mississippi, which properties are more particularly described in a warranty deed heretofore executed and delivered on April 22, 1969, and filed for record in the Office of the Chancery Clerk of the First Judicial District of Hinds County, Mississippi, located in Jackson, Mississippi, on April 25, 1969, at 9:00 a.m., and recorded in Deed Book No. 1822, Page 136 et seq., the Central High Building, 101 Capitol Centre and the properties described in Section 1 of Chapter 542, Laws of 2009.

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(ii) To exercise general supervision and care over and keep in good condition the Dr. Eldon Langston Bolton Building located in Biloxi, Mississippi.

(iii) To exercise general supervision and care over and keep in good condition the State Service Center, located at the intersection of U.S. Highway 49 and John Merl Tatum Industrial Drive in Hattiesburg, Mississippi.

(iv) To exercise general supervision and care over and keep in good condition any property purchased, constructed or otherwise acquired by the State of Mississippi for conducting state business and not specifically under the supervision and care by any other state entity, but which is reasonably assumed the department would be responsible for such, as approved by the Public Procurement Review Board.

(b) To assign suitable office space for the various state departments, officers and employees who are provided with an office in any of the buildings under the jurisdiction or control of the Department of Finance and Administration. However, the assignment of space in the New Capitol Building shall be designated by duly passed resolution of the combined Senate Rules Committee and the House Management Committee, meeting as a joint committee, approved by the Lieutenant Governor and Speaker of the House of Representatives. A majority vote of the members of the Senate Rules Committee and a majority vote of the members of the House Management Committee shall be required on all actions taken, resolutions or reports adopted, and all other matters considered by the full combined committee on occasions when the Senate Rules Committee and the House Management Committee shall meet as a full combined committee.

(c) To approve or disapprove with the concurrence of the Public Procurement Review Board, any lease or rental agreements by any state agency or department, including any state agency financed entirely by federal and special funds, for space outside the buildings under the jurisdiction of the Department of Finance and Administration, including space necessary for parking to be used by state employees who work in the Woolfolk Building, the Carroll Gartin Justice Building or the Walter Sillers Office Building. In no event shall any employee, officer, department, federally funded agency or bureau of the state be authorized to enter a lease or rental

agreement without prior approval of the Department of Finance and Administration and the Public Procurement Review Board.

The Department of Finance and Administration is authorized to use architects, engineers, building inspectors and other personnel for the purpose of making inspections as may be deemed necessary in carrying out its duties and maintaining the facilities.

The provisions of this paragraph (c) shall stand repealed on July 1, 2014.

(d) To acquire by lease, lease-purchase agreement, or otherwise, as provided in Section 27-104-107, and to assign through the Office of General Services, by lease or sublease agreement from the office, and with the concurrence of the Public Procurement Review Board, to any state agency or department, including any state agency financed entirely by federal and special funds, appropriate office space in the buildings acquired.

SECTION 3. Section 29-5-77, Mississippi Code of 1972, is amended as follows:

29-5-77. (1) The Department of Finance and Administration shall have jurisdiction relative to the enforcement of all laws of the State of Mississippi on the properties, from curb to curb including adjoining streets, sidewalks and leased parking lots within the Capitol complex, set forth in Section 29-5-2, the Court of Appeals Building, the Mississippi Department of Transportation Building and the Public Employees' Retirement System Building, and any property purchased, constructed or otherwise acquired by the State of Mississippi for conducting state business and not specifically under the supervision and care by any other state entity, but which is reasonably assumed the department would be responsible for such, as approved by the Public Procurement Review Board. The Department of Finance and Administration shall, through any person or persons appointed by the Department of Finance and Administration, or through the Department of Public Safety when requested by the Department of Finance and Administration, make arrests for any violation of any law of the State of Mississippi on those grounds of or within those properties. The Department of Finance and Administration shall enforce the provisions of Sections 29-5-57 through 29-5-67, 29-5-71 through 29-5-77, and 29-5-81 through 29-5-95, and prescribe such rules and regulations as are necessary therefor.

(2) When in the opinion of the Governor or, in his absence, the Lieutenant Governor, it is readily apparent that an emergency exists that the persons appointed by the Department of Finance and Administration are unable to control in the accomplishment of the provisions of Sections 29-5-57 through 29-5-67, 29-5-71 through 29-5-77, and 29-5-81 through 29-5-95 in regard to law enforcement, then the Governor or, in his absence, the Lieutenant Governor, may call upon the Department of Public Safety, members of which shall have power to arrest and detain any persons violating the provisions of those sections of law, until the person can be brought before the proper authorities for trial.

(3) Subject to the approval of the Board of Trustees of State Institutions of Higher Learning, the Board of Trustees and the Department of Finance and Administration shall be authorized to enter into a contract for the Department of Finance and Administration to supply the security personnel with jurisdiction to enforce all laws of the State of Mississippi on the property of the Board of Trustees located at the corner of Ridgewood Road and Lakeland Drive in the City of Jackson.

(4) (a) The Department of Finance and Administration and the Department of Agriculture are authorized to enter into a contract for the Department of Finance and Administration to have jurisdiction and enforce all laws of the State of Mississippi on the property of the Department of Agriculture located at 121 North Jefferson Street and the new Farmer's Market Building located at the corner of High and Jefferson Streets in the City of Jackson, Hinds County, Mississippi. It is the intent of the Legislature that the Department of Finance and Administration will not post any security personnel at such buildings, but will provide regular vehicle patrols and responses to security system alarms.

(b) The Department of Finance and Administration and the Mississippi Fair Commission are authorized to enter into a contract for the Department of Finance and Administration to have jurisdiction and enforce all laws of the State of Mississippi on the property of the Mississippi Fair Commission known as the "Mississippi State Fairgrounds Complex" and any and all of its outlying buildings and property. The Department of Finance and Administration and the Mississippi Fair Commission are authorized to enter into a contract for

the Department of Finance and Administration to supply the security personnel to the Mississippi Fair Commission with jurisdiction to enforce all laws of the State of Mississippi on this property and any and all buildings on this property.

(5) The Department of Finance and Administration and the * * * Department of Revenue are authorized to enter into a contract for the Department of Finance and Administration to supply the security personnel with jurisdiction to enforce all laws of the State of Mississippi at the Alcoholic Beverage Control facility and the * * * Department of Revenue main office.

SECTION 4. Section 29-5-81, Mississippi Code of 1972, is amended as follows:

29-5-81. Grounds of public buildings over which the Department of Finance and Administration has jurisdiction shall comprise the following:

(a) In the City of Jackson, Mississippi:

(i) New State Capitol: Bounded on the north by High Street, on the west by North West Street, on the south by Mississippi Street, and on the east by North President Street;

(ii) Governor's Mansion: Bounded on the north by Amite Street, on the west by North West Street, on the south by Capitol Street and on the east by North Congress Street;

(iii) Woolfolk State Office Building: Bounded on the north by High Street, on the west by Lamar Street, on the south by Hamilton Street and on the east by North West Street;

(iv) Old State Capitol and War Veterans' Memorial Building Complex: Bounded on the north by Amite Street, on the west by North State Street and South State Street, on the south by Pearl Street and on the east by property of the Gulf, Mobile and Ohio Railroad Company;

(v) Carroll Gartin Justice Building and Walter Sillers Office Building Complex: Bounded on the north by George Street, on the west by North West Street, on the south by High Street and on the east by North President Street;

(vi) Heber Ladner Building: Bounded on the north by Mississippi Street, on the west by North Congress Street, on the south by the property of Galloway Methodist Church used as a parking lot and on the east by the property on which the Mississippi Farm Bureau Federation Building stands;

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(vii) State Board of Health Building: Bounded on the north by Stadium Drive, on the west by the property of Mississippi Hospital and Medical Service, on the southwest by property on which is located a Standard Oil service station, on the southeast by property leased by the Mississippi Federation of Women's Clubs and on the east by North State Street;

(viii) Robert E. Lee Building and other properties acquired in the same transaction: Particularly described in warranty deed executed and delivered on April 22, 1969, and filed for record in the Office of the Chancery Clerk of the First Judicial District of Hinds County, Mississippi, located in Jackson, Mississippi, on April 25, 1969, at 9:00 a.m., and recorded in Deed Book No. 1822, Page 136 et seq.;

(ix) Charlotte Capers Building: Bounded on the north by the Old Capitol Building, on the west by South State Street, on the south by Pearl Street, and on the east by the Illinois Central Railroad tracks;

(x) William F. Winter Archives and History Building: Bounded on the north by Mississippi Street, on the west by North Street, on the south by Amite Street, and on the east by Jefferson Street;

(xi) Mayfair Building: Bounded on the north by George Street, on the west by Northwest Street, on the south by Walter Sillers Office Building complex, and on the east by North President Street;

(xii) Court of Appeals Building: Bounded on the west by North State Street, on the north by George Street, on the east by North Street, and on the south by the building designated as 654 North State Street, including the parking area east of and adjacent to the 654 North State Street Building;

(xiii) Central High Building;

(xiv) 101 Capitol Centre: Located at 101 West Capitol Street, Jackson, Mississippi;

(xv) Robert G. Clark, Jr. Building: Located at 301 North Lamar Street, Jackson, Mississippi;

(xvi) The Barefield Property, the Sun-n-Sand Property and any other property described in Section 1 of Chapter 542, Laws of 2009* * *;

(xvii) The Mississippi State Fairgrounds Complex, including, but not limited to, the Mississippi Coliseum,

Trademart, Kirk Fordice Equine Center, Mississippi Street Armory, and all arenas, barns, buildings, campgrounds and property whatsoever; such property being bounded on the north by High Street, on the west by Jefferson Street, on the east by Greymont Street, and on the south by Greymont Street.

(b) The Dr. Eldon Langston Bolton Building: Located in the City of Biloxi, Mississippi.

(c) The State Service Center: Located at the intersection of U.S. Highway 49 and John Merl Tatum Industrial Drive in the City of Hattiesburg, Mississippi.

(d) Any property purchased, constructed or otherwise acquired by the State of Mississippi for conducting state business and not specifically under the supervision and care by any other state entity, but which is reasonably assumed the department would be responsible for such, as approved by the Public Procurement Review Board.

SECTION 5. This act shall take effect and be in force from and after its passage.

Mississippi Legislature

2013 Regular Session

House Bill 776

Description: Mississippi Rural Dentists Scholarship Program; establish.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2013

Chapter Number: 397

History of Actions:

1	01/21	(H) Referred To Public Health and Human Services
2	01/24	(H) Title Suff Do Pass
3	01/25	(H) Passed {Vote}
4	01/28	(H) Transmitted To Senate
5	02/12	(S) Referred To Public Health and Welfare; Appropriations
6	02/27	(S) DR - TSDP: PH To AP
7	03/05	(S) Title Suff Do Pass
8	03/07	(S) Passed {Vote}
9	03/08	(S) Transmitted To House
10	03/12	(H) Enrolled Bill Signed
11	03/12	(S) Enrolled Bill Signed
12	03/20	Approved by Governor

----- Additional Information -----

House Committee: Public Health and Human Services

Senate Committee: Public Health and Welfare, Appropriations

Principal Author: Mims

Additional Authors: DeBar

Title: AN ACT TO CREATE NEW SECTIONS 37-146-1, 37-146-3, 37-146-5, 37-146-7, 37-146-9, 37-146-11, 37-146-13, 37-146-17, 37-146-19 AND 37-146-21, MISSISSIPPI CODE OF 1972, TO ENACT THE MISSISSIPPI RURAL DENTISTS SCHOLARSHIP PROGRAM FOR THE PURPOSE OF IDENTIFYING QUALIFIED UNIVERSITY

AND COLLEGE STUDENTS FROM RURAL AREAS OF THE STATE FOR DENTAL SCHOOL MATRICULATION; TO ESTABLISH THE MISSISSIPPI RURAL DENTISTS SCHOLARSHIP COMMISSION TO PROMULGATE RULES AND REGULATIONS FOR PARTICIPATION IN THE SCHOLARSHIP PROGRAM; TO PRESCRIBE APPLICANT QUALIFICATIONS AND PROVIDE A MAXIMUM NUMBER OF NEW ADMISSIONS PER YEAR; TO PROVIDE STANDARDS FOR PARTICIPATION IN THE PROGRAM; TO PROVIDE THAT THE STUDENT IS OBLIGATED FOR ONE YEAR OF PRACTICE AS A DENTIST IN A RURAL AREA FOR EVERY YEAR OF FINANCIAL ASSISTANCE; TO DEFINE THE LIMITATION OF PROGRAM ADMINISTRATIVE AUTHORITY; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI HB 776

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Public Health and Human Services

By: Representatives Mims, DeBar

House Bill 776

(As Sent to Governor)

AN ACT TO CREATE NEW SECTIONS 37-146-1, 37-146-3, 37-146-5, 37-146-7, 37-146-9, 37-146-11, 37-146-13, 37-146-17, 37-146-19 AND 37-146-21, MISSISSIPPI CODE OF 1972, TO ENACT THE MISSISSIPPI RURAL DENTISTS SCHOLARSHIP PROGRAM FOR THE PURPOSE OF IDENTIFYING QUALIFIED UNIVERSITY AND COLLEGE STUDENTS FROM RURAL AREAS OF THE STATE FOR DENTAL SCHOOL MATRICULATION; TO ESTABLISH THE MISSISSIPPI RURAL DENTISTS SCHOLARSHIP COMMISSION TO PROMULGATE RULES AND REGULATIONS FOR PARTICIPATION IN THE SCHOLARSHIP PROGRAM; TO PRESCRIBE APPLICANT QUALIFICATIONS AND PROVIDE A MAXIMUM NUMBER OF NEW ADMISSIONS PER YEAR; TO PROVIDE STANDARDS FOR PARTICIPATION IN THE PROGRAM; TO PROVIDE THAT THE STUDENT IS OBLIGATED FOR ONE YEAR OF PRACTICE AS A DENTIST IN A RURAL AREA FOR EVERY YEAR OF FINANCIAL ASSISTANCE; TO DEFINE THE LIMITATION OF PROGRAM ADMINISTRATIVE AUTHORITY; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. The following provision shall be codified as Section 37-146-1, Mississippi Code of 1972:

37-146-1. Mississippi Rural Dentists Program established.
There is established the Mississippi Rural Dentists Scholarship Program for the purpose of identifying and recruiting qualified university and college students from rural areas of the state for dental school matriculation. The program shall consist of three (3) distinct phases through which participants will progress, including:

- (a) Undergraduate pre-dental education;
- (b) Dental school and residency; and

(c) Initial entry into dental practice in a rural or underserved area of the State of Mississippi.

SECTION 2. The following provision shall be codified as Section 37-146-3, Mississippi Code of 1972:

37-146-3.**Mississippi Rural Dentists Scholarship Commission; compensation; program funding.** (1) The Mississippi Rural Dentists Scholarship Program shall be administered by a commission to be known as the "Mississippi Rural Dentists Scholarship Commission." The commission shall be directed by a board composed of the following members:

(a) Two (2) dentists appointed by and from the membership of the Mississippi Dental Association, the term of which shall be three (3) years and who may be reappointed for one (1) additional term;

(b) One (1) dentist appointed by and from the membership of each of the following organizations, the term of which shall be three (3) years and who may be reappointed for one (1) additional term:

(i) Mississippi Dental Society;

(ii) Mississippi Academy of General Dentistry; and

(iii) Mississippi Chapter, American Academy of Pediatric Dentistry;

(c) Two (2) designees of the Dean of the University of Mississippi School of Dentistry whose terms are at the discretion of the dean, at least one (1) of whom is a member of the University of Mississippi School of Dentistry Admissions Committee; and

(d) Two (2) dental students, one (1) of whom shall be selected yearly through a process developed by the Dean of the School of Dentistry in consultation with the chairs of the various departments.

(2) The pre-professional advisors from the accredited four-year colleges and universities in the State of Mississippi shall comprise an advisory committee to the commission in the administration of the Mississippi Rural Dentists Scholarship Program.

(3) Vacancies on the commission must be filled in a manner consistent with the original appointments.

(4) All appointments to the commission must be made no later than September 1, 2013. After the members are appointed, the Program Director of the Mississippi Rural Dentists Scholarship Program shall set a date for the organizational meeting that is mutually acceptable to the majority of the commission members. The organizational meeting shall be for

the purposes of organizing the commission and establishing rules for transacting its business. A majority of the members of the commission shall constitute a quorum at all commission meetings. An affirmative vote of a majority of the members present and voting shall be required in the adoption of rules, reports and in any other actions taken by the commission. At the organizational meeting, the commission shall elect a chair and vice chair from the members appointed according to paragraphs (a) through (d) of subsection (1). The chair shall serve for a term of two (2) years, upon the expiration of which, the vice chair shall assume the office of chair.

(5) After the organizational meeting, the commission shall hold no less than two (2) meetings annually.

(6) The commission may form an executive committee for the purpose of transacting business that must be conducted before the next regularly scheduled meeting of the commission. All actions taken by the executive committee must be ratified by the commission at its next regularly scheduled meeting.

(7) Members of the commission shall serve without compensation but may be reimbursed, subject to the availability of funding, for mileage and actual and necessary expenses incurred in attending meetings of the commission, as provided in Section 25-3-41.

(8) Funding for the establishment and continued operation of the program and commission shall be appropriated out of any money in the State General Fund not already appropriated to the University of Mississippi Medical Center.

SECTION 3. The following provision shall be codified as Section 37-146-5, Mississippi Code of 1972:

37-146-5. Powers and duties of the commission. The Mississippi Rural Dentists Scholarship Commission shall have the following powers and duties:

(a) Developing the administrative policy for the commission and the Mississippi Rural Dentists Scholarship Program;

(b) Promulgating rules and regulations, with the advice and consent of the University of Mississippi Medical Center, pertaining to the implementation and operation of the Rural Dentists Scholarship Program;

(c) Developing and implementing strategies and activities for the identification and recruitment of students and for marketing the program and for the implementation of the program. In developing these strategies, the board shall seek the input of various organizations and entities.

(d) Establishing a budget, with the advice and consent of the University of Mississippi Medical Center, to support the activities of the program and periodically reviewing and if appropriate, revising, the scholarship and other stipends offered through the program;

(e) Advising the University of Mississippi Medical Center regarding hiring appropriate staff necessary to work in conjunction with the Executive Director of the Mississippi Rural Physicians Scholarship Program.

(f) Reviewing participants' progress in the program and mentoring students and dentists participating in the program;

(g) The commission shall have the authority through use of generally applicable definitions, to designate an area of the state as underserved or rural. The method by which these designations shall be made shall be contained in rules and regulations promulgated by the commission.

SECTION 4. The following provision shall be codified as Section 37-146-7, Mississippi Code of 1972:

37-146-7. Identification and recruitment of undergraduate participants; designation of underserved or rural area; applicant qualifications; maximum number of new admissions per year. (1) The commission shall develop and implement policies and procedures designed to recruit, identify and enroll undergraduate students who demonstrate necessary interest, commitment, aptitude and academic achievement to pursue careers as dentists in rural or dentally underserved areas of Mississippi, and to develop and implement the programs designed to foster successful entry of participants into dental school, completion of dental school, and establishment and maintenance of a career in dentistry in a rural or underserved area of Mississippi.

(2) The commission shall have the authority through use of generally applicable definitions, to designate an area of the state as underserved or rural.

(3) The commission, in conjunction with the University of Mississippi Medical Center, shall have the authority to provide students selected for scholarship funding with faculty mentors and other programs designed to enhance the students' likelihood of admission to the dental school. The commission and the University of Mississippi Medical Center will develop coursework that will help provide scholarship students with the skills necessary for sustained and successful dental practice in rural Mississippi.

(4) Each applicant for admission to the program must submit an application to the commission that conforms to requirements established by the commission.

(5) In selecting participants for the program, the board may only accept an applicant if his or her academic record and other characteristics, if given consideration by the University of Mississippi School of Dentistry Admissions Committee, would be considered credible and competitive.

(6) An applicant for the program may be admitted only upon a majority vote of the members of the commission.

(7) Up to three (3) students will be admitted to the Mississippi Rural Dentists Scholarship Program each year.

SECTION 5. The following provision shall be codified as Section 37-146-9, Mississippi Code of 1972:

37-146-9. Participants to adhere to program policies and practices to remain in program; forgiveness or repayment of financial assistance under certain circumstances. (1) Participants must adhere to the policies and practices as stipulated by the commission to continue in the program.

(2) Students in the program may receive tuition or other financial support that may be provided by the commission. If a student in the program is admitted to and completes dental school, any tuition or other educational and living support provided to the student by the commission will be forgiven. However, if the student is not successful in being accepted into dental school within three (3) years of entry into the Mississippi Rural Dentists Scholarship Program, or if the student otherwise breaches his or her agreement with the commission, all financial assistance provided to the student must be repaid according to policies adopted by the board.

SECTION 6. The following provision shall be codified as Section 37-146-11, Mississippi Code of 1972:

37-146-11. Participants may apply to the accredited dental school in Mississippi; early admissions process for students applying to University of Mississippi School of Dentistry.

(1) Students in the program may apply to the Mississippi Dental School.

(2) Students in the program seeking admission to the University of Mississippi School of Dentistry shall be eligible for the admissions process pursuant to criteria established by the School of Dentistry Admissions Committee which will include consideration of the attributes of participation in the program.

(3) In carrying out the admissions process developed for the Mississippi Rural Dentists Scholarship Program participants under this section, the goal is for the program to work with the School of Dentistry to enhance the capability of participants to successfully enter and complete dental school and enter practice in rural or underserved areas in Mississippi. To the extent feasible, the early admissions process should be completed before December 1 of the year preceding a student's admission to dental school.

SECTION 7. The following provision shall be codified as Section 37-146-13, Mississippi Code of 1972:

37-146-13. Ongoing financial support for program participants who attend dental school; preference for ongoing support to University of Mississippi School of Dentistry students; students obligated for one year of practice for every year of financial assistance received. (1) Subject to the availability of funding, students in the program who successfully matriculate to dental school are eligible for ongoing financial support in accordance with policies and requirements of the commission and in accordance with the applicable laws and regulations. The number of students to be supported at the University of Mississippi School of Dentistry and at other schools will be established by policy prescribed by the commission.

(2) Subject to the availability of funding, students enrolled at the University of Mississippi School of Dentistry may receive tuition support, funding to assist with the cost of books and a living stipend, as prescribed by policy of the commission and in accordance with applicable regulations.

Preferences for ongoing funding must be given to those students admitted to the University of Mississippi School of Dentistry.

(3) For each year that a student in dental school receives financial assistance, the student is obligated for one (1) year of practice as a dentist in a rural or underserved area in Mississippi. Breach of the agreement at any stage of training shall invoke the repayment of all financial assistance provided to the student through the Mississippi Rural Dentists Scholarship Program along with other penalties that may be prescribed in policy by the commission.

SECTION 8. The following provision shall be codified as Section 37-146-17, Mississippi Code of 1972:

37-146-17. Program participants required to enter practice of dentistry in health professional shortage, rural or underserved area upon completion of residency for number of years corresponding to number of years assistance received up to maximum of five years; breach of contract; liability for repayment. (1) Upon completion of dental school and/or a dental residency program approved by the commission, a participant in the Mississippi Rural Dentists Scholarship Program must proceed to enter the full-time practice of dentistry in a rural or underserved area in Mississippi, as defined by the commission and consistent with generally acceptable designations. If an area experiences significant changes in its dental or general community which are not reflected by dental health professional shortage area (HPSA), the commission may receive testimony and, in its discretion, may qualify the area as a dentally underserved or rural area to allow the program participant to fulfill his or her practice obligation.

(2) Upon entering the practice of dentistry, a participant in the program must serve in a dental health professional shortage area (HPSA) or rural area otherwise approved for practice under subsection (1) of this section for a number of years which corresponds to the number of years, not to exceed five (5), for which the participant received funding through the program. Any participant who fails to complete the period of practice for which he or she is obligated to provide services in a dental health professional shortage area (HPSA) or rural area in exchange for financial assistance received through the Mississippi Rural Dentists Scholarship Program

shall be liable for the repayment of all financial assistance provided to the participant through the program, along with other penalties that may be prescribed by the commission, an amount which shall be reduced on a pro rata basis for actual years of practice by the dentist in the area designated by the commission.

SECTION 9. The following provision shall be codified as Section 37-146-19, Mississippi Code of 1972:

37-146-19.**Initial practice entry support system for program participants.** The Mississippi Rural Dentists Scholarship Program, acting through the commission, shall make an effort to establish an initial practice entry support system for participants in the program.

SECTION 10. The following provision shall be codified as Section 37-146-21, Mississippi Code of 1972:

37-146-21.**Limitation of program and commission governing and administrative authority.** This chapter may not be construed as granting the Mississippi Rural Dentists Scholarship Program or its governing commission any governing or administrative authority over any program administered by any college, university, dental school or residency program in this state or any other program established by state law.

SECTION 11. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

House Bill 799

Description: Memorial highways; designate certain as “Congressional Medal of Honor Recipient” when appropriate.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2013

Chapter Number: 346

History of Actions:

- | | | | |
|----|-------|-----|---|
| 1 | 01/21 | (H) | Referred To Transportation |
| 2 | 01/31 | (H) | Title Suff Do Pass As Amended |
| 3 | 02/07 | (H) | Amended |
| 4 | 02/07 | (H) | Passed As Amended {Vote} |
| 5 | 02/12 | (H) | Transmitted To Senate |
| 6 | 02/12 | (S) | Referred To Highways and Transportation |
| 7 | 02/26 | (S) | Title Suff Do Pass |
| 8 | 03/07 | (S) | Passed {Vote} |
| 9 | 03/08 | (S) | Transmitted To House |
| 10 | 03/12 | (S) | Enrolled Bill Signed |
| 11 | 03/12 | (H) | Enrolled Bill Signed |
| 12 | 03/18 | | Approved by Governor |

Amendments:

[H] Committee Amendment No 1 *Adopted* Voice Vote

----- Additional Information -----

House Committee: Transportation

Senate Committee: Highways and Transportation

Principal Author: Staples

Additional Authors: Arnold, Evans (43rd), Hood, Massengill, Morgan, Pigott, Shirley, Shows, Sullivan

Title: AN ACT TO CREATE THE “MISSISSIPPI CONGRESSIONAL MEDAL OF HONOR RECIPIENT’S MEMORIAL HIGHWAY ACT”; TO REQUIRE THE

DEPARTMENT OF TRANSPORTATION TO ERECT AND MAINTAIN THE SIGNS DESIGNATING A MEMORIAL HIGHWAY NAMED AFTER A PERSON WHO WAS AWARDED A CONGRESSIONAL MEDAL OF HONOR WITH THE WORDS "CONGRESSIONAL MEDAL OF HONOR RECIPIENT"; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI HB 799

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Transportation

By: Representatives Staples, Arnold, Evans (43rd), Hood,
Massengill, Morgan, Pigott, Shirley, Shows, Sullivan

House Bill 799

(As Sent to Governor)

AN ACT TO CREATE THE "MISSISSIPPI CONGRESSIONAL MEDAL OF HONOR RECIPIENT'S MEMORIAL HIGHWAY ACT"; TO REQUIRE THE DEPARTMENT OF TRANSPORTATION TO ERECT AND MAINTAIN THE SIGNS DESIGNATING A MEMORIAL HIGHWAY NAMED AFTER A PERSON WHO WAS AWARDED A CONGRESSIONAL MEDAL OF HONOR WITH THE WORDS "CONGRESSIONAL MEDAL OF HONOR RECIPIENT"; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. This act shall be known and may be cited as the "Mississippi Congressional Medal of Honor Recipient's Memorial Highway Act."

SECTION 2. On any segment of any public street, road, highway or interstate within the state that is named after a person who was awarded a Congressional Medal of Honor, the Department of Transportation shall erect and maintain the signs designating the memorial highway with the words "Congressional Medal of Honor Recipient." Any such signs that do not contain those words shall be replaced by new signs to comply with this act. This act shall also apply to bridges or intersections that are part of a public street, road, highway or interstate within this state.

SECTION 3. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

House Bill 817

Description: Elevators; enact the Mississippi Conveyance Safety Act.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Three/Fifths

Effective date: July 1, 2013

Chapter Number: 405

History of Actions:

- | | | | |
|----|-------|-----|------------------------------|
| 1 | 01/21 | (H) | Referred To Judiciary A |
| 2 | 02/05 | (H) | Title Suff Do Pass |
| 3 | 02/07 | (H) | Passed {Vote} |
| 4 | 02/08 | (H) | Transmitted To Senate |
| 5 | 02/22 | (S) | Referred To Insurance |
| 6 | 02/27 | (S) | Title Suff Do Pass |
| 7 | 03/08 | (S) | Passed {Vote} |
| 8 | 03/08 | (S) | Motion to Reconsider Entered |
| 9 | 03/12 | (S) | Motion to Reconsider Tabled |
| 10 | 03/12 | (S) | Transmitted To House |
| 11 | 03/14 | (H) | Enrolled Bill Signed |
| 12 | 03/14 | (S) | Enrolled Bill Signed |
| 13 | 03/20 | | Approved by Governor |

Amendments:

[S] Amendment No 1Lost Voice Vote

----- Additional Information -----

House Committee: Judiciary A

Senate Committee: Insurance

Principal Author: Baker

Title: AN ACT TO CREATE THE MISSISSIPPI CONVEYANCE SAFETY ACT; TO ESTABLISH MINIMUM STANDARDS FOR CONVEYANCE PERSONNEL AND SERVICES; TO PROVIDE FOR THE SCOPE OF THIS ACT; TO DEFINE CERTAIN TERMS USED IN THIS ACT; TO PROVIDE FOR THE LICENSURE OF ELEVATOR

CONTRACTORS, ELEVATOR MECHANICS AND ELEVATOR INSPECTORS, AND TO ESTABLISH QUALIFICATIONS THEREFOR; TO PROVIDE FOR BIENNIAL RENEWAL OF LICENSES; TO PROVIDE THAT LICENSES MAY BE SUSPENDED, REVOKED OR SUBJECT TO CIVIL PENALTIES UPON CERTAIN VIOLATIONS; TO REQUIRE REGISTRATION OF EXISTING ELEVATORS, PLATFORM LIFTS, DUMBWAITERS, ESCALATORS, MOVING WALKS AND ANY OTHER CONVEYANCE; TO REQUIRE INSTALLATION AND/OR SERVICE AND MAINTENANCE TO BE PERFORMED IN COMPLIANCE WITH THE STATE FIRE PREVENTION AND BUILDING CODE; TO REQUIRE PERMITS BEFORE A CONVEYANCE IS ERECTED, CONSTRUCTED, INSTALLED OR ALTERED WITHIN BUILDINGS OR STRUCTURES; TO PROVIDE CIVIL PENALTIES FOR VIOLATIONS OF THIS ACT; TO PROVIDE THAT THE PROVISIONS OF THIS ACT ARE NOT RETROACTIVE UNLESS OTHERWISE STATED; TO PROVIDE THAT THE OWNER OF ALL NEW AND EXISTING CONVEYANCES LOCATED IN ANY BUILDING OR STRUCTURE SHALL HAVE THE RESPONSIBILITY OF HAVING THE CONVEYANCE INSPECTED ANNUALLY BY A LICENSED ELEVATOR INSPECTOR; TO EXEMPT FROM THE PROVISIONS OF THIS ACT ANY ELEVATOR IN A PRIVATE RESIDENCE; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Judiciary A

By: Representative Baker

House Bill 817

(As Sent to Governor)

AN ACT TO CREATE THE MISSISSIPPI CONVEYANCE SAFETY ACT; TO ESTABLISH MINIMUM STANDARDS FOR CONVEYANCE PERSONNEL AND SERVICES; TO PROVIDE FOR THE SCOPE OF THIS ACT; TO DEFINE CERTAIN TERMS USED IN THIS ACT; TO PROVIDE FOR THE LICENSURE OF ELEVATOR CONTRACTORS, ELEVATOR MECHANICS AND ELEVATOR INSPECTORS, AND TO ESTABLISH QUALIFICATIONS THEREFOR; TO PROVIDE FOR BIENNIAL RENEWAL OF LICENSES; TO PROVIDE THAT LICENSES MAY BE SUSPENDED, REVOKED OR SUBJECT TO CIVIL PENALTIES UPON CERTAIN VIOLATIONS; TO REQUIRE REGISTRATION OF EXISTING ELEVATORS, PLATFORM LIFTS, DUMBWAITERS, ESCALATORS, MOVING WALKS AND ANY OTHER CONVEYANCE; TO REQUIRE INSTALLATION AND/OR SERVICE AND MAINTENANCE TO BE PERFORMED IN COMPLIANCE WITH THE STATE FIRE PREVENTION AND BUILDING CODE; TO REQUIRE PERMITS BEFORE A CONVEYANCE IS ERRECTED, CONSTRUCTED, INSTALLED OR ALTERED WITHIN BUILDINGS OR STRUCTURES; TO PROVIDE CIVIL PENALTIES FOR VIOLATIONS OF THIS ACT; TO PROVIDE THAT THE PROVISIONS OF THIS ACT ARE NOT RETROACTIVE UNLESS OTHERWISE STATED; TO PROVIDE THAT THE OWNER OF ALL NEW AND EXISTING CONVEYANCES LOCATED IN ANY BUILDING OR STRUCTURE SHALL HAVE THE RESPONSIBILITY OF HAVING THE CONVEYANCE INSPECTED ANNUALLY BY A LICENSED ELEVATOR INSPECTOR; TO EXEMPT FROM THE PROVISIONS OF THIS ACT ANY ELEVATOR IN A PRIVATE RESIDENCE; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. This act shall be known and may be cited as the Mississippi Conveyance Safety Act.

SECTION 2. The purpose of this act is to provide for the safety of conveyance equipment and personnel, and to promote public safety awareness. This act establishes the minimum standards for conveyance personnel and services. The use of unsafe or defective lifting devices imposes a substantial probability of serious and preventable injury to employees and the public. The prevention of these injuries and protection of employees and the public from unsafe conditions is in the best

interest of the people of this state. Conveyance personnel performing work covered by this act shall, by documented training and/or experience, be familiar with the operation and safety functions of the components and equipment. Training and experience shall include, but not be limited to, recognizing the safety hazards and performing the procedures required under this act.

SECTION 3. This act covers the design, construction, operation, inspection, testing, maintenance, alteration and repair of the following equipment, its associated parts, and its hoistways, except as provided by Section 4 of this act:

(a) Hoisting and lowering mechanisms equipped with a car or platform that moves between two (2) or more landings. This equipment includes, but is not limited to, the following (also see ASME A17.1/CSA B44, ASME A17.7/CSA B44.7, ASME A17.3 and ASME A18.1):

- (i) Elevators;
- (ii) Platform lifts;
- (iii) Stairway chairlifts.

(b) Power-driven stairways and walkways for carrying persons between landings. This equipment includes, but is not limited to, the following (also see ASME A17.1/CSA B44, ASME A17.7/CSA B44.7, and ASME A17.3):

- (i) Escalators;
- (ii) Moving walks.

(c) Hoisting and lowering mechanisms equipped with a car that serves two (2) or more landings and is restricted to the carrying of material by its limited size or limited access to the car. This equipment includes, but is not limited to, the following (also see ASME A17.1/CSA B44, ASME A17.7/CSA B44.7, and ASME A17.3):

- (i) Dumbwaiters;
- (ii) Material lifts and dumbwaiters with automatic transfer devices.

SECTION 4. (1) Equipment not covered by this act includes, but is not limited to, the following:

- (a) Material hoists within the scope of ANSI A10.5;
- (b) Man lifts within the scope of ASME A90.1;

(c) Mobile scaffolds, towers and platforms within the scope of ANSI A92;

(d) Powered platforms and equipment for exterior and interior maintenance within the scope of ANSI A120.1;

(e) Conveyors and related equipment within the scope of ASME B20.1;

(f) Cranes, derricks, hoists, hooks, jacks and slings within the scope of ASME B30;

(g) Industrial trucks within the scope of ASME B56;

(h) Portable equipment, except for portable escalators that are covered by ASME A17.1/CSA B44 and ASME A17.7/CSA B44.7;

(i) Tiering or piling machines used to move materials to and from storage located and operating entirely within one (1) story;

(j) Equipment for feeding or positioning materials at machine tools, printing presses, or similar equipment;

(k) Kip or furnace hoists;

(l) Wharf ramps;

(m) Railroad car lifts or dumpers;

(n) Line jacks, false cars, shafters, moving platforms and similar equipment used for installing an elevator by an elevator contractor licensed in this state.

(2) The provisions of this act shall not apply to any conveyance that is located in a private residence.

SECTION 5. For purposes of this act, the following terms are defined as follows, unless the context clearly indicates otherwise:

(a) "Administrator" means the person or persons designated by the Commissioner of Insurance.

(b) "ANSI" means the American National Standards Institute.

(c) "ASCE" means the American Society of Civil Engineers.

(d) "ASCE 21" means the American Society of Civil Engineers Automated People Mover Standards.

(e) "ASME" means the American Society of Mechanical Engineers.

2013 GENERAL LAWS OF MISSISSIPPI HB 817

(f) "ASME A17.1/CSA B44" means the Safety Code for Elevators and Escalators, an American National Standard.

(g) "ASME A17.3" means the Safety Code for Existing Elevators and Escalators, an American National Standard.

(h) "ASME A17.7/CSA B44.7" means the Performance-Based Safety Code for Elevators and Escalators, an American National Standard.

(i) "ASME A18.1" means the Safety Standard for Platform Lifts and Stairway Chairlifts, an American National Standard.

(j) "Automated people mover" means an installation defined as an "automated people mover" in ASCE 21.

(k) "Certificate of Operation" means a document that indicates that the conveyance has had the safety inspection and tests required by this act.

(l) "Commissioner" means Commissioner of Insurance.

(m) "Conveyance" means any elevator, dumbwaiter, escalator, moving sidewalk, platform lift, stairway chairlift or automated people mover.

(n) "Elevator" means an installation defined as an "elevator" in ASME A17.1/CSA B44.

(o) "Elevator contractor" means any sole proprietor, firm, corporation or other business entity engaged in the business of erecting, constructing, installing, altering, servicing, repairing or maintaining elevators and other conveyances.

(p) "Elevator helper or apprentice" means a person who works under the general direction of a licensed elevator mechanic.

(q) "Elevator inspector" means any person who specializes in the design, testing and maintenance inspection of elevators and other conveyances.

(r) "Elevator mechanic" means any person who is engaged in erecting, constructing, installing, altering, servicing, repairing, testing or maintaining elevators or other conveyances. For the purposes of this chapter, a certified elevator technician is considered an elevator mechanic.

(s) "Escalator" means an installation as defined as an "escalator" in ASME A17.1/CSA B44.

(t) "Existing installation" means an installation defined as an "installation, existing" in ASME A17.1/CSA B44.

(u) "License" means a written license issued under this act.

(v) "Licensee" means the elevator mechanic, elevator contractor or elevator inspector who possesses a license issued under this act.

(w) "Limited Elevator Contractor" means any sole proprietor, firm or company who employs individuals to carry on a business of erecting, constructing, installing, altering, servicing, repairing, or maintaining platform lifts and stairway chairlifts within any building or structure.

(x) "Limited Elevator Mechanic" means any person who is engaged in erecting, constructing, installing, altering, servicing, repairing or maintaining platform lifts and stairway chairlifts.

(y) "Moving walk" or "moving sidewalk" means an installation defined as a "moving walk" in ASME A17.1/CSA B44.

SECTION 6.(1) Only a person who is working under the direct supervision of a licensed elevator contractor and who possesses an elevator mechanic license is authorized to erect, construct, alter, replace, maintain, test, remove, dismantle or wire from the mainline feeder terminals on the controller of any conveyance contained within buildings or structures in this state. Supervision by a licensed elevator contractor is not required for removing or dismantling conveyances that are destroyed as a result of a complete demolition of a secured building or structure or where the hoistway or wellway is demolished back to the basic support structure whereby no access is permitted to endanger the safety and welfare of a person.

(2) Only a person who possesses an elevator inspector license is authorized to inspect conveyances identified in this act.

SECTION 7.(1) The Commissioner of Insurance shall promulgate regulations for the equipment, fees and licenses regulated by this act. The regulations shall consider the latest Safety Code for Elevators and Escalators, ASME A17.1/CSA B44; the Safety Code for Existing Elevators and Escalators, ASME A17.3; the Performance-Based Safety Code for Elevators and Escalators,

ASME A17.7/CSA B44.7, the Safety Standards for Platform Lifts and Stairway Chairlifts, ASME A18.1; and Standard for the Qualification of Elevator Inspectors, ASME QEI-1.

(2) The licensing authority shall consult with engineering authorities and organizations that are concerned with standard safety codes, the rules and regulations governing the operation, maintenance, servicing, construction, alteration, installation, and inspection of conveyances and the qualifications that are adequate, reasonable and necessary for licensing as an elevator mechanic, contractor and inspector.

(3) Exceptions and variances from the literal requirements of applicable standards and regulations may be granted in cases where an exception or variance would not jeopardize the public safety and welfare.

SECTION 8.(1) The Commissioner of Insurance shall develop and implement an application process and fee schedule for licenses designated in this act. The fee schedule adopted by the commissioner must be similar to those fees charged for similar services by the surrounding states.

(2) (a) Applicants for a mechanic license must demonstrate one (1) of the following qualifications and abilities:

(i) An acceptable combination of documented experience and education credits of, within the last five (5) years, not less than four (4) years work experience in the elevator industry, whether in construction, maintenance or service and repair, or any combination thereof, as verified by current and previous employers, and satisfactory completion of a written examination approved by the administrator on the most recent applicable codes and standards;

(ii) Certificates of completion of an apprenticeship program for elevator mechanics having standards substantially equal to those of this act, and registered with the Bureau of Apprenticeship and Training or the United States Department of Labor.

(b) A license shall be issued to an applicant who holds a valid license from a state having standards substantially equal to those of this act without examination and upon verification of qualification by the administrator.

(c) Any person who furnishes the licensing authority with acceptable proof that the person has worked as an elevator

constructor, maintenance or repair mechanic, upon making application for a license, shall be entitled to receive an elevator mechanic license without examination if the person has worked without direct and immediate supervision for a licensed elevator contractor for not less than four (4) years immediately before July 1, 2013. To be eligible to be licensed without examination under this paragraph, the person must make an application for licensure on or before July 1, 2014. A license is not required for an elevator helper or apprentice; however, a licensed mechanic is limited to directly supervise only three (3) helpers or apprentices.

(3) Applicants for an inspector license must meet the standards as set forth by the Commissioner of Insurance.

(4) (a) Applicants for an elevator contractor license must demonstrate that they have in their employ licensed elevator mechanic(s).

(b) An elevator contractor license may be issued to an applicant who holds an equivalent valid license from a state having standards substantially equal to those of this act.

(5) (a) Applicants for a limited elevator contractor license must demonstrate that they have in their employ licensed elevator mechanic(s).

(b) A limited elevator contractor license may be issued to an applicant who holds an equivalent valid license from a state having standards substantially equal to those of this act.

(6) (a) Except when otherwise expressly provided, licenses issued under this act shall be valid for two (2) years.

(b) The renewal of all licenses granted under the provisions of this section may be conditioned upon the submission of a certificate of completion of a course designed to ensure the continuing education of licensees. The courses shall be subject to approval by the licensing authority administrator and shall consist of not less than eight (8) hours of instruction that shall be attended and completed within one (1) year immediately preceding such license renewal.

(c) The commissioner, upon written request, may grant exception to or extend the time in which a licensee must comply with the continuing educational requirements of this

section for reasons of poor health, military service or other reasonable or just causes.

SECTION 9. (1) A license issued pursuant to this act may be suspended, revoked or subject to civil penalty by the administrator upon verification that any one or more of the following reasons exist:

(a) Any false statement as to a material matter in the application.

(b) Fraud, misrepresentation or bribery in securing a license.

(c) Failure to notify the licensing authority and the owner or lessee of an elevator or other conveyance in any condition that is not in compliance with this act.

(2) No license shall be suspended, revoked, denied or subject to civil penalty until after a hearing before the administrator upon notice and hearing to the licensee or applicant of at least twenty (20) days at the last known address appearing on the license or application, served personally or by registered mail. The administrator may suspend or revoke the license, deny the application, levy a civil penalty, or dismiss the proceeding.

(3) Any person, sole proprietor, firm, or corporation whose license is revoked, suspended or subject to civil penalty, or whose license application is denied, may appeal from such determination to the Commissioner of Insurance, which shall within thirty (30) days thereafter, hold a hearing, of which at least fifteen (15) days' written notice shall be given to all interested parties. The commissioner shall, within thirty (30) days after such hearing, issue a decision.

(4) Any person, sole proprietor, firm or corporation whose license is revoked suspended or subject to civil penalty, or whose license application is denied, may appeal from such determination to the Chancery Court of the First Judicial District of Hinds County, Mississippi, within twenty (20) days of the final ruling.

SECTION 10. (1) On or before December 31, 2014, the owner or lessee of every conveyance not exempted under this act shall register with the Commissioner of Insurance each conveyance owned or operated by the owner or lessee, giving the type, rated load and speed, name of manufacturer, its location, the

purpose for which it is used, and such additional information as may be required.

(2) Conveyances placed in service on or after July 1, 2013, shall be registered at the time they are completed and placed in service.

SECTION 11. A licensee shall inspect, test, install, service and maintain conveyances in compliance with the provisions and standards of the State Fire Prevention and Building Code.

SECTION 12. (1) A permit must be obtained before a conveyance covered by this act shall be erected, constructed, installed or altered within buildings or structures in this state. Where any material alteration is made, the device shall conform to applicable requirements as determined by the commissioner. A permit may be issued only to a licensed elevator contractor, and a copy of the permit shall be kept at the construction site at all times while the work is in progress.

(2) Each application for a permit shall be accompanied by copies of specifications and accurately scaled and fully dimensioned plans showing the location of the installation in relation to the plans and elevation of the building; the location of the machinery room/machinery space and the equipment to be installed, relocated or altered; all structural supporting members thereof, including foundations; and shall specify all materials to be employed and all loads to be supported or conveyed. The plans and specifications shall be sufficiently complete to illustrate all details of construction and design.

(3) Permits may be revoked for the following reasons:

(a) Where any false statement or misrepresentation as to the material facts was made in the application, plans, or specifications on which the permit was based.

(b) Where the permit was issued in error and should not have been issued in accordance with the code.

(c) Where the work detailed under the permit is not being performed in accordance with the provisions of the application, plans or specifications or with the code or conditions of the permit.

(d) Where the elevator contractor to whom the permit was issued fails or refuses to comply with a stop work order.

(4) (a) A permit expires if the work authorized by a permit is not commenced within six (6) months after the date of issuance.

(b) For good cause, an extension of the permit may be granted.

(5) A permit is not required for a repair.

(6) The commissioner may by rules and regulations establish a fee schedule for the permits and certifications issued under this section. The fee schedule must be similar to fees charged for the same services in surrounding states.

SECTION 13. (1) All new conveyance installations shall be performed by a licensed elevator contractor who must certify compliance with this act upon completion of the work. Before any conveyance is used, the property owner or lessee must obtain a certificate of operation. It is the responsibility of the licensed elevator contractor to complete and submit first-time registration(s) for new installations.

(2) A certificate of operation is renewable annually, except that certificates issued for platform and stairway chairlifts for private residences shall be valid for a period of three (3) years. A certificate of operation must be clearly displayed on or in each conveyance or in the machine room/machinery space for use for the benefit of code enforcement staff.

SECTION 14. (1) It shall be the responsibility of the owner of all new and existing conveyances located in any building or structure to have the conveyance inspected annually (ASME A17.1/CSA B44, category one) by a licensed elevator inspector who shall supply the property owner or lessee and the licensing authority with a written inspection report that describes any and all code violation. Property owners shall have thirty (30) days from the date of the published inspection report to be in full compliance with correcting the violations.

(2) (a) It shall be the responsibility of the owner of all conveyances to hire an elevator contractor or a limited elevator contractor to supervise the required tests at intervals in compliance with the ASME A17.1/CSA B44 Appendix N, ASME A18.1 and ASCE 21.

(b) All tests shall be performed by a licensed elevator mechanic.

SECTION 15. Any owner or lessee who shall violate any of the provisions of this act, upon conviction thereof, shall be fined in an amount not to exceed One Thousand Five Hundred Dollars (\$1,500.00).

SECTION 16. The provisions of this act are not retroactive unless otherwise stated and equipment shall be required to comply with the applicable code at the date of its installation or within the period determined by the Commissioner of Insurance. If, upon the inspection of any device covered by this act, the equipment is found in dangerous condition or there is an immediate hazard to those riding or using such equipment, the administrator shall notify the owner of the condition and any corrective action taken, or required by the administrator, and shall order such alterations or additions as may be deemed necessary to eliminate the dangerous condition. Further, upon a finding of a danger to the public, the administrator may order the immediate cessation of the use of such device.

SECTION 17. This act shall not be construed to relieve or lessen the responsibility or liability of any person, firm, or corporation owning, operating, controlling, maintaining, erecting, constructing, installing, altering, inspecting, testing, or repairing any elevator or other related mechanism covered by this chapter for damages to person or property caused by any defect therein, nor does the state assume any such liability or responsibility therefor or any liability to any person for whatsoever reason by the enactment of this act or any acts or omissions arising hereunder.

SECTION 18. There is created a special fund to be designated as the "Mississippi Elevator and Conveyance Fund." The fund shall consist of monies appropriated by the act of the Legislature and monies collected by the Commissioner of Insurance for licenses, fees and penalties levied pursuant to this chapter. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned or investment earnings on amounts in the fund shall be deposited to the credit of the fund. The Commissioner of Insurance may contract with a third party to assist the commissioner with carrying out the purposes of this chapter. The Commissioner of Insurance may use the monies in this fund to defray the costs of administration of this chapter, including, but not limited

to, using the monies in this fund to pay a third party a reasonable fee for its services.

SECTION 19. The Commissioner of Insurance shall have authority to promulgate rules and regulations for licensing and enforcement for all provisions in this act.

SECTION 20. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

House Bill 841

Description: Sales tax; reduce rate on sales of power and fuel to a producer of oil and gas for use in oil recovery or sequestration of carbon dioxide.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: Revenue

Revenue: Yes

Vote type required: Three/Fifths

Effective date: July 1, 2013

Chapter Number: 310

History of Actions:

1	01/21	(H)	Referred To Ways and Means
2	02/07	(H)	Title Suff Do Pass
3	02/07	(H)	Passed {Vote}
4	02/08	(H)	Transmitted To Senate
5	02/19	(S)	Referred To Finance
6	02/21	(S)	Title Suff Do Pass
7	02/27	(S)	Passed {Vote}
8	02/28	(S)	Transmitted To House
9	03/01	(H)	Enrolled Bill Signed
10	03/01	(S)	Enrolled Bill Signed
11	03/07		Approved by Governor

Code Section: A 027-0065-0019

----- Additional Information -----

House Committee: Ways and Means

Senate Committee: Finance

Principal Author: Smith (39th)

Title: AN ACT TO AMEND SECTION 27-65-19, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE SALE OF ELECTRICITY, CURRENT, POWER, STEAM, COAL, NATURAL GAS, LIQUEFIED PETROLEUM GAS OR OTHER FUEL TO A PRODUCER OF OIL AND GAS FOR USE DIRECTLY IN ENHANCED OIL RECOVERY USING CARBON DIOXIDE OR THE PERMANENT SEQUESTRATION

OF CARBON DIOXIDE IN A GEOLOGICAL FORMATION SHALL BE TAXED AT THE RATE OF 1-1/2%; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Ways and Means

By: Representative Smith (39th)

House Bill 841

(As Sent to Governor)

AN ACT TO AMEND SECTION 27-65-19, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE SALE OF ELECTRICITY, CURRENT, POWER, STEAM, COAL, NATURAL GAS, LIQUEFIED PETROLEUM GAS OR OTHER FUEL TO A PRODUCER OF OIL AND GAS FOR USE DIRECTLY IN ENHANCED OIL RECOVERY USING CARBON DIOXIDE OR THE PERMANENT SEQUESTRATION OF CARBON DIOXIDE IN A GEOLOGICAL FORMATION SHALL BE TAXED AT THE RATE OF 1-1/2%; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 27-65-19, Mississippi Code of 1972, is amended as follows:

27-65-19. (1) (a) (i) Except as otherwise provided in this subsection, upon every person selling to consumers, electricity, current, power, potable water, steam, coal, natural gas, liquefied petroleum gas or other fuel, there is hereby levied, assessed and shall be collected a tax equal to seven percent (7%) of the gross income of the business. Provided, gross income from sales to consumers of electricity, current, power, natural gas, liquefied petroleum gas or other fuel for residential heating, lighting or other residential noncommercial or nonagricultural use, and sales of potable water for residential, noncommercial or nonagricultural use shall be excluded from taxable gross income of the business. Provided further, upon every such seller using electricity, current, power, potable water, steam, coal, natural gas, liquefied petroleum gas or other fuel for nonindustrial purposes, there is hereby levied, assessed and shall be collected a tax equal to seven percent (7%) of the cost or value of the product or service used.

(ii) Gross income from sales to a church that is exempt from federal income taxation under 26 USCS Section 501(c)(3) of electricity, current, power, natural gas, liquefied petroleum gas or other fuel for heating, lighting or other use, and sales of potable water to such a church shall be excluded from taxable gross income of the business if the

electricity, current, power, natural gas, liquefied petroleum gas or potable water is utilized on property that is primarily used for religious or educational purposes.

(b) There is hereby levied, assessed and shall be collected a tax equal to one and one-half percent (1-1/2%) of the gross income of the business when the electricity, current, power, steam, coal, natural gas, liquefied petroleum gas or other fuel is sold to or used by a manufacturer, custom processor, technology intensive enterprise meeting the criteria provided for in Section 27-65-17(1)(f), or public service company for industrial purposes, which shall include that used to generate electricity, to operate an electrical distribution or transmission system, to operate pipeline compressor or pumping stations or to operate railroad locomotives; however, the tax imposed on natural gas under this paragraph shall not exceed Ten and One-half Cents (10.5¢) per one thousand (1,000) cubic feet and sales of fuel used to produce electric power by a company primarily engaged in the business of producing, generating or distributing electric power for sale shall be exempt from sales tax as provided in Section 27-65-107.

(c) (i) The one and one-half percent (1-1/2%) industrial rate provided for in this subsection shall also apply when the electricity, current, power, steam, coal, natural gas, liquefied petroleum gas or other fuel is sold to a producer or processor for use directly in the production of poultry or poultry products, the production of livestock and livestock products, the production of domesticated fish and domesticated fish products, the production of marine aquaculture products, the production of plants or food by commercial horticulturists, the processing of milk and milk products, the processing of poultry and livestock feed, and the irrigation of farm crops.

(ii) The one and one-half percent (1-1/2%) rate provided for in this subsection shall also apply to the sale of naturally occurring carbon dioxide and anthropogenic carbon dioxide lawfully injected into the earth for:

1. Use in an enhanced oil recovery project, including, but not limited to, use for cycling, repressuring or lifting of oil; or

2. Permanent sequestration in a geological formation.

(iii) The one and one-half percent (1-1/2%) industrial rate provided for in this subsection shall also apply when

the electricity, current, power, steam, coal, natural gas, liquefied petroleum gas or other fuel is sold to a producer of oil and gas for use directly in enhanced oil recovery using carbon dioxide and/or the permanent sequestration of carbon dioxide in a geological formation.

(d) The one and one-half percent (1-1/2%) rate provided for in this subsection shall not apply to sales of fuel for automobiles, trucks, truck-tractors, buses, farm tractors or airplanes.

(e) (i) Upon every person providing services in this state, there is hereby levied, assessed and shall be collected:

1. A tax equal to seven percent (7%) of the gross income received from all charges for intrastate telecommunications services.

2. A tax equal to seven percent (7%) of the gross income received from all charges for interstate telecommunications services.

3. A tax equal to seven percent (7%) of the gross income received from all charges for international telecommunications services.

4. A tax equal to seven percent (7%) of the gross income received from all charges for ancillary services.

5. A tax equal to seven percent (7%) of the gross income received from all charges for products delivered electronically, including, but not limited to, software, music, games, reading materials or ring tones.

(ii) A person, upon proof that he has paid a tax in another state on an event described in subparagraph (i) of this paragraph (e), shall be allowed a credit against the tax imposed in this paragraph (e) on interstate telecommunications service charges to the extent that the amount of such tax is properly due and actually paid in such other state and to the extent that the rate of sales tax imposed by and paid in such other state does not exceed the rate of sales tax imposed by this paragraph (e).

(iii) Charges by one (1) telecommunications provider to another telecommunications provider holding a permit issued under Section 27-65-27 for services that are resold by such other telecommunications provider, including, but not limited

to, access charges, shall not be subject to the tax levied pursuant to this paragraph (e).

(iv) For purposes of this paragraph (e):

1. "Telecommunications service" means the electronic transmission, conveyance or routing of voice, data, audio, video or any other information or signals to a point, or between points. The term "telecommunications service" includes such transmission, conveyance or routing in which computer processing applications are used to act on the form, code or protocol of the content for purposes of transmission, conveyance or routing without regard to whether such service is referred to as voice over Internet protocol services or is classified by the Federal Communications Commission as enhanced or value added. The term "telecommunications service" shall not include:

a. Data processing and information services that allow data to be generated, acquired, stored, processed or retrieved and delivered by an electronic transmission to a purchaser where such purchaser's primary purpose for the underlying transaction is the processed data or information;

b. Installation or maintenance of wiring or equipment on a customer's premises;

c. Tangible personal property;

d. Advertising, including, but not limited to, directory advertising;

e. Billing and collection services provided to third parties;

f. Internet access service;

g. Radio and television audio and video programming services regardless of the medium, including the furnishing of transmission, conveyance and routing of such services by the programming service provider. Radio and television audio and video programming services shall include, but not be limited to, cable service as defined in 47 USCS 522(6) and audio and video programming services delivered by commercial mobile radio service providers, as defined in 47 CFR 20.3;

h. Ancillary services; or

i. Digital products delivered electronically, including, but not limited to, software, music, video, reading materials or ring tones.

2. "Ancillary services" means services that are associated with or incidental to the provision of telecommunications services, including, but not limited to, detailed telecommunications billing, directory assistance, vertical service and voice mail service.

a. "Conference bridging" means an ancillary service that links two (2) or more participants of an audio or video conference call and may include the provision of a telephone number. Conference bridging does not include the telecommunications services used to reach the conference bridge.

b. "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.

c. "Directory assistance" means an ancillary service of providing telephone number information and/or address information.

d. "Vertical service" means an ancillary service that is offered in connection with one or more telecommunications services, which offers advanced calling features that allow customers to identify callers and to manage multiple calls and call connections, including conference bridging services.

e. "Voice mail service" means an ancillary service that enables the customer to store, send or receive recorded messages. Voice mail service does not include any vertical services that the customer may be required to have in order to utilize the voice mail service.

3. "Intrastate" means telecommunications service that originates in one (1) United States state or United States territory or possession, and terminates in the same United States state or United States territory or possession.

4. "Interstate" means a telecommunications service that originates in one (1) United States state or United States territory or possession, and terminates in a different United States state or United States territory or possession.

5. "International" means a telecommunications service that originates or terminates in the United States and terminates or originates outside the United States, respectively.

(v) For purposes of paragraph (e), the following sourcing rules shall apply:

1. Except for the defined telecommunications services in item 3 of this subparagraph, the sales of telecommunications services sold on a call-by-call basis shall be sourced to:

a. Each level of taxing jurisdiction where the call originates and terminates in that jurisdiction, or

b. Each level of taxing jurisdiction where the call either originates or terminates and in which the service address is also located.

2. Except for the defined telecommunications services in item 3 of this subparagraph, a sale of telecommunications services sold on a basis other than a call-by-call basis, is sourced to the customer's place of primary use.

3. The sale of the following telecommunications services shall be sourced to each level of taxing jurisdiction as follows:

a. A sale of mobile telecommunications services other than air-to-ground radiotelephone service and prepaid calling service is sourced to the customer's place of primary use as required by the Mobile Telecommunication Sourcing Act.

A. A home service provider shall be responsible for obtaining and maintaining the customer's place of primary use. The home service provider shall be entitled to rely on the applicable residential or business street address supplied by such customer, if the home service provider's reliance is in good faith; and the home service provider shall be held harmless from liability for any additional taxes based on a different determination of the place of primary use for taxes that are customarily passed on to the customer as a separate itemized charge. A home service provider shall be allowed to treat the address used for purposes of the tax levied by this chapter for any customer under a service contract in effect on August 1, 2002, as that customer's place of primary use for the remaining term of such service contract or agreement, excluding any extension or renewal of such service contract

or agreement. Month-to-month services provided after the expiration of a contract shall be treated as an extension or renewal of such contract or agreement.

B. If the commissioner determines that the address used by a home service provider as a customer's place of primary use does not meet the definition of the term "place of primary use" as defined in subitem a.A. of this item 3, the commissioner shall give binding notice to the home service provider to change the place of primary use on a prospective basis from the date of notice of determination; however, the customer shall have the opportunity, prior to such notice of determination, to demonstrate that such address satisfies the definition.

C. The department has the right to collect any taxes due directly from the home service provider's customer that has failed to provide an address that meets the definition of the term "place of primary use" which resulted in a failure of tax otherwise due being remitted.

b. A sale of postpaid calling service is sourced to the origination point of the telecommunications signal as first identified by either:

A. The seller's telecommunications system; or

B. Information received by the seller from its service provider, where the system used to transport such signals is not that of the seller.

c. A sale of a prepaid calling service or prepaid wireless calling service shall be subject to the tax imposed by this paragraph if the sale takes place in this state. If the customer physically purchases a prepaid calling service or prepaid wireless calling service at the vendor's place of business, the sale is deemed to take place at the vendor's place of business. If the customer does not physically purchase the service at the vendor's place of business, the sale of a prepaid calling card or prepaid wireless calling card is deemed to take place at the first of the following locations that applies to the sale:

A. The customer's shipping address, if the sale involves a shipment;

B. The customer's billing address;

C. Any other address of the customer that is known by the vendor; or

D. The address of the vendor, or alternatively, in the case of a prepaid wireless calling service, the location associated with the mobile telephone number.

4. A sale of a private communication service is sourced as follows:

a. Service for a separate charge related to a customer channel termination point is sourced to each level of jurisdiction in which such customer channel termination point is located.

b. Service where all customer termination points are located entirely within one (1) jurisdiction or levels of jurisdiction is sourced in such jurisdiction in which the customer channel termination points are located.

c. Service for segments of a channel between two (2) customer channel termination points located in different jurisdictions and which segments of a channel are separately charged is sourced fifty percent (50%) in each level of jurisdiction in which the customer channel termination points are located.

d. Service for segments of a channel located in more than one (1) jurisdiction or levels of jurisdiction and which segments are not separately billed is sourced in each jurisdiction based on the percentage determined by dividing the number of customer channel termination points in such jurisdiction by the total number of customer channel termination points.

5. A sale of ancillary services is sourced to the customer's place of primary use.

(vi) For purposes of subparagraph (v) of this paragraph (e):

1. "Air-to-ground radiotelephone service" means a radio service, as that term is defined in 47 CFR 22.99, in which common carriers are authorized to offer and provide radio telecommunications service for hire to subscribers in aircraft.

2. "Call-by-call basis" means any method of charging for telecommunications services where the price is measured by individual calls.

3. "Communications channel" means a physical or virtual path of communications over which signals are

transmitted between or among customer channel termination points.

4. "Customer" means the person or entity that contracts with the seller of telecommunications services. If the end user of telecommunications services is not the contracting party, the end user of the telecommunications service is the customer of the telecommunications service. Customer does not include a reseller of telecommunications service or for mobile telecommunications service of a serving carrier under an agreement to serve the customer outside the home service provider's licensed service area.

5. "Customer channel termination point" means the location where the customer either inputs or receives the communications.

6. "End user" means the person who utilizes the telecommunications service. In the case of an entity, "end user" means the individual who utilizes the service on behalf of the entity.

7. "Home service provider" has the meaning ascribed to such term in Section 124(5) of Public Law 106-252 (Mobile Telecommunications Sourcing Act).

8. "Mobile telecommunications service" has the meaning ascribed to such term in Section 124(7) of Public Law 106-252 (Mobile Telecommunications Sourcing Act).

9. "Place of primary use" means the street address representative of where the customer's use of the telecommunications service primarily occurs, which must be the residential street address or the primary business street address of the customer. In the case of mobile telecommunications services, the place of primary use must be within the licensed service area of the home service provider.

10. "Post-paid calling service" means the telecommunications service obtained by making a payment on a call-by-call basis either through the use of a credit card or payment mechanism such as a bank card, travel card, credit card or debit card, or by charge made to a telephone number which is not associated with the origination or termination of the telecommunications service. A post-paid calling service includes a telecommunications service, except a prepaid wireless calling service that would be a prepaid calling

service except it is not exclusively a telecommunications service.

11. "Prepaid calling service" means the right to access exclusively telecommunications services, which must be paid for in advance and which enables the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount.

12. "Prepaid wireless calling service" means a telecommunications service that provides the right to utilize mobile wireless service as well as other nontelecommunications services, including the download of digital products delivered electronically, content and ancillary service, which must be paid for in advance that is sold in predetermined units or dollars of which the number declines with use in a known amount.

13. "Private communication service" means a telecommunications service that entitles the customer to exclusive or priority use of a communications channel or group of channels between or among termination points, regardless of the manner in which such channel or channels are connected, and includes switching capacity, extension lines, stations and any other associated services that are provided in connection with the use of such channel or channels.

14. "Service address" means:

a. The location of the telecommunications equipment to which a customer's call is charged and from which the call originates or terminates, regardless of where the call is billed or paid.

b. If the location in subitem a of this item 14 is not known, the origination point of the signal of the telecommunications services first identified by either the seller's telecommunications system or in information received by the seller from its service provider, where the system used to transport such signals is not that of the seller.

c. If the location in subitems a and b of this item 14 are not known, the location of the customer's place of primary use.

(vii) 1. For purposes of this subparagraph (vii), "bundled transaction" means a transaction that consists of distinct and identifiable properties or services which are sold for a single nonitemized price but which are treated differently for tax purposes.

2. In the case of a bundled transaction that includes telecommunications services, ancillary services, Internet access, or audio or video programming services taxed under this chapter in which the price of the bundled transaction is attributable to properties or services that are taxable and nontaxable, the portion of the price that is attributable to any nontaxable property or service shall be subject to the tax unless the provider can reasonably identify that portion from its books and records kept in the regular course of business.

3. In the case of a bundled transaction that includes telecommunications services, ancillary services, Internet access, audio or video programming services subject to tax under this chapter in which the price is attributable to properties or services that are subject to the tax but the tax revenue from the different properties or services are dedicated to different funds or purposes, the provider shall allocate the price among the properties or services:

a. By reasonably identifying the portion of the price attributable to each of the properties and services from its books and records kept in the regular course of business; or

b. Based on a reasonable allocation methodology approved by the department.

4. This subparagraph (vii) shall not create a right of action for a customer to require that the provider or the department, for purposes of determining the amount of tax applicable to a bundled transaction, allocate the price to the different portions of the transaction in order to minimize the amount of tax charged to the customer. A customer shall not be entitled to rely on the fact that a portion of the price is attributable to properties or services not subject to tax unless the provider elects, after receiving a written request from the customer in the form required by the provider, to provide verifiable data based upon the provider's books and records that are kept in the regular course of business that reasonably identifies the portion of the price attributable to the properties or services not subject to the tax.

(2) Persons making sales to consumers of electricity, current, power, natural gas, liquefied petroleum gas or other fuel for residential heating, lighting or other residential noncommercial or nonagricultural use or sales of potable water for residential, noncommercial or nonagricultural use shall indicate on each statement rendered to customers that such charges are exempt from sales taxes.

(3) There is hereby levied, assessed and shall be paid on transportation charges on shipments moving between points within this state when paid directly by the consumer, a tax equal to the rate applicable to the sale of the property being transported. Such tax shall be reported and paid directly to the Department of Revenue by the consumer.

SECTION 2. Nothing in this act shall affect or defeat any claim, assessment, appeal, suit, right or cause of action for taxes due or accrued under the sales tax laws before the date on which this act becomes effective, whether such claims, assessments, appeals, suits or actions have been begun before the date on which this act becomes effective or are begun thereafter; and the provisions of the sales tax laws are expressly continued in full force, effect and operation for the purpose of the assessment, collection and enrollment of liens for any taxes due or accrued and the execution of any warrant under such laws before the date on which this act becomes effective, and for the imposition of any penalties, forfeitures or claims for failure to comply with such laws.

SECTION 3. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

House Bill 894

Description: Public Service Commission; may establish multi-year rate recovery plan for certain new electric generating facilities.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: Passage

Chapter Number: 306

History of Actions:

1	01/21	(H)	Referred To Public Utilities
2	01/30	(H)	Title Suff Do Pass Comm Sub
3	02/08	(H)	Committee Substitute Adopted
4	02/08	(H)	Passed {Vote}
5	02/08	(H)	Motion to Reconsider Entered (Shirley, Beckett)
6	02/11	(H)	Motion to Reconsider Tabled
7	02/12	(H)	Transmitted To Senate
8	02/12	(S)	Referred To Energy
9	02/13	(S)	Title Suff Do Pass
10	02/14	(S)	Passed {Vote}
11	02/15	(S)	Transmitted To House
12	02/19	(H)	Enrolled Bill Signed
13	02/19	(S)	Enrolled Bill Signed
14	02/26		Approved by Governor

----- Additional Information -----

House Committee: Public Utilities

Senate Committee: Energy

Principal Author: Beckett

Title: AN ACT TO MITIGATE THE INITIAL RATE IMPACTS ON CUSTOMERS OF CERTAIN NEWLY CONSTRUCTED ELECTRIC GENERATING FACILITIES BY AUTHORIZING THE PUBLIC SERVICE COMMISSION TO ESTABLISH A

MULTI-YEAR NEW GENERATION RATE RECOVERY PLAN; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Public Utilities

By: Representative Beckett

House Bill 894

(As Sent to Governor)

AN ACT TO MITIGATE THE INITIAL RATE IMPACTS ON CUSTOMERS OF CERTAIN NEWLY CONSTRUCTED ELECTRIC GENERATING FACILITIES BY AUTHORIZING THE PUBLIC SERVICE COMMISSION TO ESTABLISH A MULTI-YEAR NEW GENERATION RATE RECOVERY PLAN; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. The following shall be codified as Section 77-3-106, Mississippi Code of 1972:

77-3-106. (1) As used in this section:

(a) The term "rate mitigation plan" means a rate plan designed to mitigate the initial rate impacts of collecting the revenue requirements associated with the inclusion of a newly constructed generating facility in rate base and rates by establishing a plan for collecting or phasing in the revenue requirements over a period that is not to exceed ten (10) years.

(b) The term "generating facility" shall have the same meaning as defined in Section 77-3-103.

(2) A rate mitigation plan may be approved by the commission in connection with a generating facility that is owned, in whole or in part, by an electric public utility whose rates are subject to the jurisdiction of the commission in accordance with the procedures contained in this section. The rate mitigation plan:

(a) Shall be proposed by an electric public utility through a separate petition or by an electric public utility in connection with any other rate proceeding pending before the commission related to a generating facility;

(b) Shall be implemented through rate schedules, rate riders, methods, formulas or other mechanisms, which have previously been proposed by the electric public utility or,

if amended, are subsequently agreed to by the electric public utility;

(c) Shall not be requested or filed earlier than twelve (12) months prior to the beginning of the calendar year in which a generating facility is scheduled to be placed into commercial operation; and

(d) Shall be limited in scope to only the investment, expenses, revenues and rates of return associated with the construction, ownership and operation of a generating facility and all related assets, facilities and equipment incurred or to be incurred through the end of the rate mitigation period. The commission's review of a rate mitigation plan shall be conducted and all existing and applicable statutes and rules related thereto shall be enforced in a manner consistent with the limitations prescribed in this subsection (2)(d).

(3) Subject to the limitation contained in subsection (2)(d) above any filing by an electric public utility requesting a rate mitigation plan shall:

(a) Present a rate mitigation plan by providing the information required in Section 77-3-37(2)(e), (f) and (g) for each year of the proposed rate mitigation period; and

(b) Present a conventional rate recovery proposal without a rate mitigation plan by complying with Section 77-3-37(2).

(4) Subject to the limitation contained in subsection (2)(d) of this section, the commission's consideration of any rate mitigation plan shall be governed by all of the provisions of Article 1 and 2 of this Chapter 3, Title 77, except Sections 77-3-37(4) and 77-3-105(2)(c) and any rules promulgated and related thereto.

(5) In approving any rate mitigation plan, the commission:

(a) Shall include a finding establishing the initially approved rate base;

(b) Shall consider and evaluate the revenues, costs, rate base and returns applicable over the entire rate mitigation period; and

(c) Shall, for the rate mitigation period, allow recovery of a return, not to exceed the weighted cost of capital rate of return approved in the rate mitigation plan, on the balance of any unrecovered or deferred amounts accrued pursuant to the rate mitigation plan for the account of either

the electric public utility or the electric public utility's retail customers during the rate mitigation period.

(6) Following the implementation of any rate mitigation approved by the commission, revenue adjustments made during and in accordance with the rate mitigation plan shall not constitute changes in rates pursuant to Sections 77-3-37 or 77-3-39. The revenues, investment, expenses and rate of return applicable to a commission-approved rate mitigation plan shall, during the rate mitigation period, be excluded from the calculation of rates for the subject electric public utility in any other rate proceeding before the commission.

(7) The authority granted to the commission herein to implement a rate mitigation plan shall not be deemed to be in conflict of the requirements of Sections 77-3-33 and 77-3-43.

(8) Notwithstanding Section 77-3-41, Section 77-3-61, or any other provision of Title 77, any order implementing a rate mitigation plan under this article shall be irrevocable once there is a final order for which the time for all appeals has expired. A final order implementing a rate mitigation plan shall, during the rate mitigation period, be binding in all future regulatory proceedings affecting such generating facility or rates or charges associated with such generating facility. Neither the commission nor any other governmental authority established by Mississippi law may amend, modify, or terminate the rate mitigation plan by any subsequent action or reduce, impair, postpone, terminate or otherwise adjust the charges established by the rate mitigation plan order until after the rate mitigation period has elapsed and such rate mitigation plan may then only be revised in accordance with Article 1 of this Chapter 3, Title 77. Notwithstanding anything contained herein to the contrary, nothing in this section shall diminish, or be construed to diminish, the power and authority of the commission in the event the generating facility is abandoned, cancelled or otherwise fails to become used and useful in the provision of electric service.

(9) The rates and charges in effect at the end of the rate mitigation period shall remain in effect after the rate mitigation plan unless and until modified in accordance with Article 1 of this Chapter 3, Title 77.

SECTION 2. The provisions of this act shall be deemed to be full and complete authority for the exercise of the powers therein granted.

SECTION 3. This act shall take effect and be in force from and after its passage.

Mississippi Legislature

2013 Regular Session

House Bill 921

Description: County Fire Services Coordinator; revise the qualification of.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2013

Chapter Number: 403

History of Actions:

- | | | | |
|----|-------|-----|--|
| 1 | 01/21 | (H) | Referred To Insurance |
| 2 | 01/29 | (H) | Title Suff Do Pass Comm Sub |
| 3 | 02/01 | (H) | Committee Substitute Adopted |
| 4 | 02/01 | (H) | Passed {Vote} |
| 5 | 02/01 | (H) | Motion to Reconsider Entered (Staples,
Chism, Buck (5th)) |
| 6 | 02/04 | (H) | Motion to Reconsider Tabled |
| 7 | 02/05 | (H) | Transmitted To Senate |
| 8 | 02/12 | (S) | Referred To County Affairs; Insurance |
| 9 | 02/27 | (S) | DR - TSDP: CA To IN |
| 10 | 02/27 | (S) | Title Suff Do Pass |
| 11 | 03/11 | (S) | Passed {Vote} |
| 12 | 03/12 | (S) | Transmitted To House |
| 13 | 03/14 | (S) | Enrolled Bill Signed |
| 14 | 03/14 | (H) | Enrolled Bill Signed |
| 15 | 03/20 | | Approved by Governor |

Code Section: A 019-0003-0071

----- Additional Information -----

House Committee: Insurance

Senate Committee: County Affairs, Insurance

Principal Author: Chism

Title: AN ACT TO AMEND SECTION 19-3-71, MISSISSIPPI CODE OF 1972, TO REVISE THE QUALIFICATIONS OF THE COUNTY FIRE SERVICES COORDINATOR; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Insurance

By: Representative Chism

House Bill 921

(As Sent to Governor)

AN ACT TO AMEND SECTION 19-3-71, MISSISSIPPI CODE OF 1972, TO REVISE THE QUALIFICATIONS OF THE COUNTY FIRE SERVICES COORDINATOR; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 19-3-71, Mississippi Code of 1972, is amended as follows:

19-3-71. The board of supervisors in each county shall appoint a county fire services coordinator, and may compensate him from any available county funds, except insurance rebate monies from the County Volunteer Fire Department Fund. The county fire services coordinator shall* * * demonstrate that he possesses fire-related knowledge and experience as well as meeting the guidelines established by the Commissioner of Insurance. The director of the local organization for emergency management serving the county may be* * * the coordinator if he* * * meets the criteria provided in this section.

SECTION 2. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

House Bill 932

Description: Mississippi Department of Employment Security; expand authority of.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Three/Fifths

Effective date: Passage

Chapter Number: 309

History of Actions:

- 1 01/21 (H) Referred To Appropriations
- 2 02/05 (H) Title Suff Do Pass Comm Sub
- 3 02/12 (H) Committee Substitute Adopted
- 4 02/12 (H) Passed {Vote}
- 5 02/14 (H) Transmitted To Senate
- 6 02/15 (S) Referred To Finance
- 7 02/21 (S) Title Suff Do Pass As Amended
- 8 02/27 (S) Amended
- 9 02/27 (S) Passed As Amended {Vote}
- 10 02/27 (S) Immediate Release
- 11 02/27 (S) Returned For Concurrence
- 12 02/28 (H) Concurred in Amend From Senate {Vote}
- 13 02/28 (H) Immediate Release
- 14 03/05 (H) Enrolled Bill Signed
- 15 03/05 (S) Enrolled Bill Signed
- 16 03/06 Approved by Governor

Amendments:

[S] Committee Amendment No 1 No Action

[S] Substitute No 1 for Committee Amendment No 1 *Adopted* Voice Vote

[S] Committee Amendment No 2 *Adopted* Voice Vote

[S] Amendment No 3 *Adopted* Voice Vote

Amendment Report for House Bill No. 932

Code Section: A 071-0005-0005, A 071-0005-0007, A 071-0005-0011, A 071-0005-0019, A 071-0005-0351, A 071-0005-0353, A 071-0005-0355, A 071-0005-0367, A 071-0005-

0389, A 071-0005-0453, A 071-0005-0455, A 071-0005-0505, A 071-0005-0511, A 071-0005-0013, A 071-0005-0357, A 071-0005-0361, A 071-0005-0501

----- Additional Information -----

House Committee: Appropriations

Senate Committee: Finance

Principal Author: Bell

Title: AN ACT TO AMEND SECTIONS 71-5-5, 71-5-7, 71-5-11, 71-5-19, 71-5-351, 71-5-353, 71-5-355, 71-5-367, 71-5-389, 71-5-453, 71-5-455, 71-5-505 AND 71-5-511, MISSISSIPPI CODE OF 1972, TO PLACE ADMINISTRATIVE CONTROL OVER THE UNEMPLOYMENT TRUST FUND AND THE UNEMPLOYMENT COMPENSATION FUND EXCLUSIVELY IN THE MISSISSIPPI DEPARTMENT OF EMPLOYMENT SECURITY (MDES); TO REVISE CERTAIN TERMS IN THE MISSISSIPPI EMPLOYMENT SECURITY LAW; TO GIVE THE MDES THE AUTHORITY TO ADMINISTRATIVELY ISSUE GARNISHMENTS TO COLLECT DELINQUENT EMPLOYER TAXES AND RECOVER UNEMPLOYMENT BENEFIT OVERPAYMENTS; TO AUTHORIZE THE EXECUTIVE DIRECTOR OF THE MDES TO GRANT EXTENSIONS OF TIME TO FILE CERTAIN REPORTS UNDER CERTAIN CIRCUMSTANCES; TO PROVIDE ADDITIONAL FUNDS FOR THE MISSISSIPPI WORKFORCE ENHANCEMENT TRAINING FUND FOR ONE CALENDAR YEAR; TO PROVIDE THAT AN EMPLOYER SHALL BE CHARGED AGAINST HIS EXPERIENCE RATING IF THE EMPLOYER FAILS TO RESPOND ADEQUATELY OR TIMELY TO A REQUEST OF THE MDES FOR INFORMATION RELATING TO AN UNEMPLOYMENT CLAIM THAT WAS SUBSEQUENTLY DETERMINED IMPROPERLY PAID AND THE EMPLOYER HAS FAILED TO RESPOND TIMELY OR ADEQUATELY TO SUCH REQUESTS; TO EXPAND THE DEFINITION OF THE TERM "DEBTOR" AND "REFUND" UNDER THE PROVISIONS THAT ALLOW MDES TO COLLECT DEBTS THROUGH SETOFFS AGAINST A TAXPAYER'S INCOME TAX REFUND; TO REVISE THE MANNER IN WHICH NOTICE IS GIVEN TO A TAXPAYER OF A HEARING TO PROTEST A SETOFF AGAINST THE TAXPAYER'S STATE INCOME TAX REFUND FOR DEBTS THE TAXPAYER OWES MDES; TO PROVIDE THAT THE ONE WEEK WAITING PERIOD FOR UNEMPLOYMENT BENEFITS MAY BE WAIVED ONLY UPON A PRESIDENTIAL DISASTER DECLARATION AUTHORIZING ASSISTANCE TO INDIVIDUALS AND ONLY IN AREAS IDENTIFIED IN THE DISASTER DECLARATION FOR INDIVIDUAL ASSISTANCE; TO REQUIRE THAT AN UNEMPLOYED INDIVIDUAL MUST BE ACTIVELY SEEKING WORK TO BE ELIGIBLE TO RECEIVE BENEFITS; TO AMEND SECTIONS 71-5-13, 71-5-357, 71-5-361 AND 71-5-501, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI HB 932

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Appropriations

By: Representative Bell

House Bill 932

(As Sent to Governor)

AN ACT TO AMEND SECTIONS 71-5-5, 71-5-7, 71-5-11, 71-5-19, 71-5-351, 71-5-353, 71-5-355, 71-5-367, 71-5-389, 71-5-453, 71-5-455, 71-5-505 AND 71-5-511, MISSISSIPPI CODE OF 1972, TO PLACE ADMINISTRATIVE CONTROL OVER THE UNEMPLOYMENT TRUST FUND AND THE UNEMPLOYMENT COMPENSATION FUND EXCLUSIVELY IN THE MISSISSIPPI DEPARTMENT OF EMPLOYMENT SECURITY (MDES); TO REVISE CERTAIN TERMS IN THE MISSISSIPPI EMPLOYMENT SECURITY LAW; TO GIVE THE MDES THE AUTHORITY TO ADMINISTRATIVELY ISSUE GARNISHMENTS TO COLLECT DELINQUENT EMPLOYER TAXES AND RECOVER UNEMPLOYMENT BENEFIT OVERPAYMENTS; TO AUTHORIZE THE EXECUTIVE DIRECTOR OF THE MDES TO GRANT EXTENSIONS OF TIME TO FILE CERTAIN REPORTS UNDER CERTAIN CIRCUMSTANCES; TO PROVIDE ADDITIONAL FUNDS FOR THE MISSISSIPPI WORKFORCE ENHANCEMENT TRAINING FUND FOR ONE CALENDAR YEAR; TO PROVIDE THAT AN EMPLOYER SHALL BE CHARGED AGAINST HIS EXPERIENCE RATING IF THE EMPLOYER FAILS TO RESPOND ADEQUATELY OR TIMELY TO A REQUEST OF THE MDES FOR INFORMATION RELATING TO AN UNEMPLOYMENT CLAIM THAT WAS SUBSEQUENTLY DETERMINED IMPROPERLY PAID AND THE EMPLOYER HAS FAILED TO RESPOND TIMELY OR ADEQUATELY TO SUCH REQUESTS; TO EXPAND THE DEFINITION OF THE TERM "DEBTOR" AND "REFUND" UNDER THE PROVISIONS THAT ALLOW MDES TO COLLECT DEBTS THROUGH SETOFFS AGAINST A TAXPAYER'S INCOME TAX REFUND; TO REVISE THE MANNER IN WHICH NOTICE IS GIVEN TO A TAXPAYER OF A HEARING TO PROTEST A SETOFF AGAINST THE TAXPAYER'S STATE INCOME TAX REFUND FOR DEBTS THE TAXPAYER OWES MDES; TO PROVIDE THAT THE ONE WEEK WAITING PERIOD FOR UNEMPLOYMENT BENEFITS MAY BE WAIVED ONLY UPON A PRESIDENTIAL DISASTER DECLARATION AUTHORIZING ASSISTANCE TO INDIVIDUALS AND ONLY IN AREAS IDENTIFIED IN THE DISASTER DECLARATION FOR INDIVIDUAL ASSISTANCE; TO REQUIRE THAT AN UNEMPLOYED INDIVIDUAL MUST BE ACTIVELY SEEKING WORK TO BE ELIGIBLE TO RECEIVE BENEFITS; TO AMEND SECTIONS 71-5-13, 71-5-357, 71-5-361 AND 71-5-501, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 71-5-5, Mississippi Code of 1972, is amended as follows:

71-5-5. The Legislature finds and declares that the existence and continued operation of a federal tax upon employers, against which some portion of the contributions required under this chapter may be credited, will protect Mississippi employers from undue disadvantages in their competition with employers in other states. If at any time, upon a formal complaint to the Governor, he shall find that Title IX of the Social Security Act has been amended or repealed by Congress or has been held unconstitutional by the Supreme Court of the United States, and that, as a result thereof, the provisions of this chapter requiring Mississippi employers to pay contributions will subject them to a serious competitive disadvantage in relation to employers in other states, he shall publish such findings and proclaim that the operation of the provisions of this chapter requiring the payment of contributions and benefits shall be suspended for a period of not more than six (6) months. The Department of Employment Security shall thereupon requisition from the Unemployment Trust Fund all monies therein standing to its credit, and shall* * * deposit such monies, together with any other monies in the Unemployment Compensation Fund, as a special fund in any banks or public depositories in this state in which general funds of the state may be deposited.

In all other cases, and unless the Governor shall issue such proclamation, this chapter shall remain in full force and effect.

If within the aforesaid six-month period the Governor shall find that other federal legislation has been enacted which avoids the competitive disadvantage herein described, he shall forthwith publicly so proclaim, and upon the date of such proclamation, the provisions of this chapter requiring the payment of contributions and benefits shall again become fully operative as of the date of such suspension with the same effect as if such suspension had not occurred. If within such six-month period no such other federal legislation is enacted or the Legislature of this state has not otherwise prescribed, the Department of Employment Security shall, under regulations prescribed by it, refund, without interest, to each employer by whom contributions have been paid his pro rata share of the total contributions paid under this chapter. Any interest

or earnings of the fund shall be available to the Department of Employment Security to pay for the costs of making such refunds. When the Department of Employment Security shall have executed the duties herein prescribed and performed such other acts as are incidental to the termination of its duties under this chapter, the Governor shall, by public proclamation, declare that the provisions of this chapter, in their entirety, shall cease to be operative.

SECTION 2. Section 71-5-7, Mississippi Code of 1972, is amended as follows:

71-5-7. If at any time the provisions of this chapter requiring the payment of contributions and benefits shall be held invalid under the Constitution of this state by the Supreme Court of this state or invalid under the United States Constitution by the Supreme Court of the United States, the* * * department shall forthwith requisition from the unemployment trust fund all monies therein standing to the credit of the* * * department, and shall* * * deposit such monies, together with any other monies in the unemployment compensation fund, in any banks or public depositories in this state in which general funds of the state may be deposited. If within six (6) months after the date of such decision the Legislature of this state enacts a new unemployment compensation law, such monies shall be paid into the unemployment compensation fund established thereunder. If within such six-month period the Legislature of this state has not enacted a new unemployment compensation law, the* * * department shall, under regulations prescribed by it, refund, without interest, to each employer by whom contributions have been paid, his pro rata share of the total contributions paid under this chapter. Any interest or earnings of the fund shall be available to the* * * department to pay for the costs of making such refunds. The provisions of this chapter, so far as necessary to the execution by the* * * department of the duties prescribed in this section and to the performance of such other acts as are incidental to the termination of its duties under this chapter, shall remain in full force and effect until the completion thereof.

SECTION 3. Section 71-5-11, Mississippi Code of 1972, is amended as follows:

71-5-11. As used in this chapter, unless the context clearly requires otherwise:

A. "Base period" means the first four (4) of the last five (5) completed calendar quarters immediately preceding the first day of an individual's benefit year.

* * *

* * * B. "Benefit year" with respect to any individual means the period beginning with the first day of the first week with respect to which he first files a valid claim for benefits, and ending with the day preceding the same day of the same month in the next calendar year; and, thereafter, the period beginning with the first day of the first week with respect to which he next files his valid claim for benefits, and ending with the day preceding the same day of the same month in the next calendar year. Any claim for benefits made in accordance with Section 71-5-515 shall be deemed to be a "valid claim" for purposes of this subsection if the individual has been paid the wages for insured work required under Section 71-5-511(e).

* * * C. "Contributions" means the money payments to the State Unemployment Compensation Fund required by this chapter.

* * * D. "Calendar quarter" means the period of three (3) consecutive calendar months ending on March 31, June 30, September 30, or December 31.

* * * E. "Department" or "commission" means the Mississippi Department of Employment Security, Office of the Governor.

* * * F. "Executive director" means the Executive Director of the Mississippi Department of Employment Security, Office of the Governor, appointed under Section 71-5-107.

* * * G. "Employing unit" means this state or another state or any instrumentalities or any political subdivisions thereof or any of their instrumentalities or any instrumentality of more than one (1) of the foregoing or any instrumentality of any of the foregoing and one or more other states or political subdivisions, any Indian tribe as defined in Section 3306(u) of the Federal Unemployment Tax Act (FUTA), which includes any subdivision, subsidiary or business enterprise wholly owned by such Indian tribe, any individual or type of organization, including any partnership, association, trust, estate, joint-stock company, insurance company, or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, which has or had in its employ one or more individuals performing services for it

within this state. All individuals performing services within this state for any employing unit which maintains two (2) or more separate establishments within this state shall be deemed to be employed by a single employing unit for all the purposes of this chapter. Each individual employed to perform or to assist in performing the work of any agent or employee of an employing unit shall be deemed to be employed by such employing unit for all purposes of this chapter, whether such individual was hired or paid directly by such employing unit or by such agent or employee, provided the employing unit had actual or constructive knowledge of the work. All individuals performing services in the employ of an elected fee-paid county official, other than those related by blood or marriage within the third degree computed by the rule of the civil law to such fee-paid county official, shall be deemed to be employed by such county as the employing unit for all the purposes of this chapter. For purposes of defining an "employing unit" which shall pay contributions on remuneration paid to individuals, if two (2) or more related corporations concurrently employ the same individual and compensate such individual through a common paymaster which is one (1) of such corporations, then each such corporation shall be considered to have paid as remuneration to such individual only the amounts actually disbursed by it to such individual and shall not be considered to have paid as remuneration to such individual such amounts actually disbursed to such individual by another of such corporations.

* * * H. "Employer" means:

(1) Any employing unit which,

(a) In any calendar quarter in either the current or preceding calendar year paid for service in employment wages of One Thousand Five Hundred Dollars (\$1,500.00) or more, except as provided in paragraph (9) of this subsection, or

(b) For some portion of a day in each of twenty (20) different calendar weeks, whether or not such weeks were consecutive, in either the current or the preceding calendar year had in employment at least one (1) individual (irrespective of whether the same individual was in employment in each such day), except as provided in paragraph (9) of this subsection;

(2) Any employing unit for which service in employment, as defined in subsection* * * I(3) of this section, is performed;

(3) Any employing unit for which service in employment, as defined in subsection* * * I(4) of this section, is performed;

(4) (a) Any employing unit for which agricultural labor, as defined in subsection* * * I(6) of this section, is performed;

(b) Any employing unit for which domestic service in employment, as defined in subsection* * * I(7) of this section, is performed;

(5) Any individual or employing unit which acquired the organization, trade, business, or substantially all the assets thereof, of another which at the time of such acquisition was an employer subject to this chapter;

(6) Any individual or employing unit which acquired its organization, trade, business, or substantially all the assets thereof, from another employing unit, if the employment record of the acquiring individual or employing unit subsequent to such acquisition, together with the employment record of the acquired organization, trade, or business prior to such acquisition, both within the same calendar year, would be sufficient to constitute an employing unit as an employer subject to this chapter under paragraph (1) or (3) of this subsection;

(7) Any employing unit which, having become an employer under paragraph (1), (3), (5) or (6) of this subsection or under any other provisions of this chapter, has not, under Section 71-5-361, ceased to be an employer subject to this chapter;

(8) For the effective period of its election pursuant to Section 71-5-361(3), any other employing unit which has elected to become subject to this chapter;

(9) (a) In determining whether or not an employing unit for which service other than domestic service is also performed is an employer under paragraph (1) or (4)(a) of this subsection, the wages earned or the employment of an employee performing domestic service, shall not be taken into account;

(b) In determining whether or not an employing unit for which service other than agricultural labor is also performed is an employer under paragraph (1) or (4)(b) of this subsection, the wages earned or the employment of an employee performing services in agricultural labor, shall not be taken into account. If an employing unit is determined an

employer of agricultural labor, such employing unit shall be determined an employer for purposes of paragraph (1) of this subsection;

(10) All entities utilizing the services of any employee leasing firm shall be considered the employer of the individuals leased from the employee leasing firm. Temporary help firms shall be considered the employer of the individuals they provide to perform services for other individuals or organizations.

* * * I. "Employment" means and includes:

(1) Any service performed, which was employment as defined in this section and, subject to the other provisions of this subsection, including service in interstate commerce, performed for wages or under any contract of hire, written or oral, express or implied.

(2) Services performed for remuneration for a principal:

(a) As an agent-driver or commission-driver engaged in distributing meat products, vegetable products, fruit products, bakery products, beverages (other than milk), or laundry or dry_-cleaning services;

(b) As a traveling or city salesman, other than as an agent-driver or commission-driver, engaged upon a full-time basis in the solicitation on behalf of, and the transmission to, a principal (except for sideline sales activities on behalf of some other person) of orders from wholesalers, retailers, contractors, or operator of hotels, restaurants, or other similar establishments for merchandise for resale or supplies for use in their business operations.

However, for purposes of this subsection, the term "employment" shall include services described in subsection*
* * I(2) (a) and (b) of this section, only if:

(i) The contract of service contemplates that substantially all of the services are to be performed personally by such individual;

(ii) The individual does not have a substantial investment in facilities used in connection with the performance of the services (other than in facilities for transportation); and

(iii) The services are not in the nature of a single transaction that is not part of a continuing relationship with the person for whom the services are performed.

(3) Service performed in the employ of this state or any of its instrumentalities or any political subdivision thereof or any of its instrumentalities or any instrumentality of more than one (1) of the foregoing or any instrumentality of any of the foregoing and one or more other states or political subdivisions or any Indian tribe as defined in Section 3306(u) of the Federal Unemployment Tax Act (FUTA), which includes any subdivision, subsidiary or business enterprise wholly owned by such Indian tribe; however, such service is excluded from "employment" as defined in the Federal Unemployment Tax Act by Section 3306(c) (7) of that act and is not excluded from "employment" under subsection* * * I(5) of this section.

(4) (a) Services performed in the employ of a religious, charitable, educational, or other organization, but only if the service is excluded from "employment" as defined in the Federal Unemployment Tax Act, 26 USCS Section 3306(c) (8), and

(b) The organization had four (4) or more individuals in employment for some portion of a day in each of twenty (20) different weeks, whether or not such weeks were consecutive, within the current or preceding calendar year, regardless of whether they were employed at the same moment of time.

(5) For the purposes of subsection* * * I(3) and (4) of this section, the term "employment" does not apply to service performed:

(a) In the employ of:

(i) A church or convention or association of churches;
or

(ii) An organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches; or

(b) By a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry, or by a member of a religious order in the exercise of duties required by such order; or

(c) In the employ of a governmental entity referred to in subsection* * * I(3), if such service is performed by an individual in the exercise of duties:

(i) As an elected official;

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(ii) As a member of a legislative body, or a member of the judiciary, of a state or political subdivision or a member of an Indian tribal council;

(iii) As a member of the State National Guard or Air National Guard;

(iv) As an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood or similar emergency;

(v) In a position which, under or pursuant to the laws of this state or laws of an Indian tribe, is designated as:

1. A major nontenured policy-making or advisory position, or

2. A policy-making or advisory position the performance of the duties of which ordinarily does not require more than eight (8) hours per week; or

(d) In a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury, or providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market, by an individual receiving such rehabilitation or remunerative work; or

(e) By an inmate of a custodial or penal institution; or

(f) As part of an unemployment work-relief or work-training program assisted or financed, in whole or in part, by any federal agency or agency of a state or political subdivision thereof or of an Indian tribe, by an individual receiving such work relief or work training, unless coverage of such service is required by federal law or regulation.

(6) Service performed by an individual in agricultural labor as defined in paragraph (15) (a) of this subsection when:

(a) Such service is performed for a person who:

(i) During any calendar quarter in either the current or the preceding calendar year paid remuneration in cash of Twenty Thousand Dollars (\$20,000.00) or more to individuals employed in agricultural labor, or

(ii) For some portion of a day in each of twenty (20) different calendar weeks, whether or not such weeks

were consecutive, in either the current or the preceding calendar year, employed in agricultural labor ten (10) or more individuals, regardless of whether they were employed at the same moment of time.

(b) For the purposes of subsection* * * I(6) any individual who is a member of a crew furnished by a crew leader to perform service in agricultural labor for any other person shall be treated as an employee of such crew leader:

(i) If such crew leader holds a valid certificate of registration under the Farm Labor Contractor Registration Act of 1963; or substantially all the members of such crew operate or maintain tractors, mechanized harvesting or crop dusting equipment, or any other mechanized equipment, which is provided by such crew leader; and

(ii) If such individual is not an employee of such other person within the meaning of subsection* * * I(1).

(c) For the purpose of subsection* * * I(6), in the case of any individual who is furnished by a crew leader to perform service in agricultural labor for any other person and who is not treated as an employee of such crew leader under paragraph (6) (b) of this subsection:

(i) Such other person and not the crew leader shall be treated as the employer of such individual; and

(ii) Such other person shall be treated as having paid cash remuneration to such individual in an amount equal to the amount of cash remuneration paid to such individual by the crew leader (either on his own behalf or on behalf of such other person) for the service in agricultural labor performed for such other person.

(d) For the purposes of subsection* * * I(6) the term "crew leader" means an individual who:

(i) Furnishes individuals to perform service in agricultural labor for any other person;

(ii) Pays (either on his own behalf or on behalf of such other person) the individuals so furnished by him for the service in agricultural labor performed by them; and

(iii) Has not entered into a written agreement with such other person under which such individual is designated as an employee of such other person.

(7) The term "employment" shall include domestic service in a private home, local college club or local chapter of a college fraternity or sorority performed for an employing unit which paid cash remuneration of One Thousand Dollars (\$1,000.00) or more in any calendar quarter in the current or the preceding calendar year to individuals employed in such domestic service. For the purpose of this subsection, the term "employment" does not apply to service performed as a "sitter" at a hospital in the employ of an individual.

(8) An individual's entire service, performed within or both within and without this state, if:

(a) The service is localized in this state; or

(b) The service is not localized in any state but some of the service is performed in this state; and

(i) The base of operations or, if there is no base of operations, the place from which such service is directed or controlled is in this state; or

(ii) The base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

(9) Services not covered under paragraph (8) of this subsection and performed entirely without this state, with respect to no part of which contributions are required and paid under an unemployment compensation law of any other state or of the federal government, shall be deemed to be employment subject to this chapter if the individual performing such services is a resident of this state and the department approves the election of the employing unit for whom such services are performed that the entire service of such individual shall be deemed to be employment subject to this chapter.

(10) Service shall be deemed to be localized within a state if:

(a) The service is performed entirely within such state;
or

(b) The service is performed both within and without such state, but the service performed without such state is incidental to the individual's service within the state; for

example, is temporary or transitory in nature or consists of isolated transactions.

(11) The services of an individual who is a citizen of the United States, performed outside the United States (except in Canada), in the employ of an American employer (other than service which is deemed "employment" under the provisions of paragraph (8), (9) or (10) of this subsection or the parallel provisions of another state's law), if:

(a) The employer's principal place of business in the United States is located in this state; or

(b) The employer has no place of business in the United States; but

(i) The employer is an individual who is a resident of this state; or

(ii) The employer is a corporation which is organized under the laws of this state; or

(iii) The employer is a partnership or a trust and the number of the partners or trustees who are residents of this state is greater than the number who are residents of any one (1) other state; or

(c) None of the criteria of subparagraphs (a) and (b) of this paragraph are met but the employer has elected coverage in this state or, the employer having failed to elect coverage in any state, the individual has filed a claim for benefits, based on such service, under the law of this state; or

(d) An "American employer," for purposes of this paragraph, means a person who is:

(i) An individual who is a resident of the United States; or

(ii) A partnership if two-thirds (2/3) or more of the partners are residents of the United States; or

(iii) A trust if all of the trustees are residents of the United States; or

(iv) A corporation organized under the laws of the United States or of any state.

(12) All services performed by an officer or member of the crew of an American vessel on or in connection with such vessel, if the operating office from which the operations of such vessel operating on navigable waters within, or within

and without, the United States are ordinarily and regularly supervised, managed, directed and controlled, is within this state, notwithstanding the provisions of subsection* * * I(8).

(13) Service with respect to which a tax is required to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund, or which as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act, 26 USCS Section 3301 et seq., is required to be covered under this chapter, notwithstanding any other provisions of this subsection.

(14) Services performed by an individual for wages shall be deemed to be employment subject to this chapter unless and until it is shown to the satisfaction of the department that such individual has been and will continue to be free from control and direction over the performance of such services both under his contract of service and in fact; and the relationship of employer and employee shall be determined in accordance with the principles of the common law governing the relation of master and servant.

(15) The term "employment" shall not include:

(a) Agricultural labor, except as provided in subsection* * * I(6) of this section. The term "agricultural labor" includes all services performed:

(i) On a farm or in a forest in the employ of any employing unit in connection with cultivating the soil, in connection with cutting, planting, deadening, marking or otherwise improving timber, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, fur-bearing animals and wildlife;

(ii) In the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm;

(iii) In connection with the production or harvesting of naval stores products or any commodity defined in the Federal

Agricultural Marketing Act, 12 USCS Section 1141j(g), or in connection with the raising or harvesting of mushrooms, or in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways not owned or operated for profit, used exclusively for supplying and storing water for farming purposes;

(iv) (A) In the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity; but only if such operator produced more than one-half (1/2) of the commodity with respect to which such service is performed;

(B) In the employ of a group of operators of farms (or a cooperative organization of which such operators are members) in the performance of service described in subitem (A), but only if such operators produced more than one-half (1/2) of the commodity with respect to which such service is performed;

(C) The provisions of subitems (A) and (B) shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption;

(v) On a farm operated for profit if such service is not in the course of the employer's trade or business;

(vi) As used in paragraph (15)(a) of this subsection, the term "farm" includes stock, dairy, poultry, fruit, fur-bearing animals, and truck farms, plantations, ranches, nurseries, ranges, greenhouses, or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

(b) Domestic service in a private home, local college club, or local chapter of a college fraternity or sorority, except as provided in subsection* * * I(7) of this section, or service performed as a "sitter" at a hospital in the employ of an individual.

(c) Casual labor not in the usual course of the employing unit's trade or business.

(d) Service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of twenty-one (21) in the employ of his father or mother.

(e) Service performed in the employ of the United States government or of an instrumentality wholly owned by the United States; except that if the Congress of the United States shall permit states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation act, then to the extent permitted by Congress and from and after the date as of which such permission becomes effective, all of the provisions of this chapter shall be applicable to such instrumentalities and to services performed by employees for such instrumentalities in the same manner, to the same extent, and on the same terms as to all other employers and employing units. If this state should not be certified under the Federal Unemployment Tax Act, 26 USCS Section 3304(c), for any year, then the payment required by such instrumentality with respect to such year shall be deemed to have been erroneously collected and shall be refunded by the department from the fund in accordance with the provisions of Section 71-5-383.

(f) Service performed in the employ of an "employer" as defined by the Railroad Unemployment Insurance Act, 45 USCS Section 351(a), or as an "employee representative" as defined by the Railroad Unemployment Insurance Act, 45 USCS Section 351(f), and service with respect to which unemployment compensation is payable under an unemployment compensation system for maritime employees, or under any other unemployment compensation system established by an act of Congress; however, the department is authorized and directed to enter into agreements with the proper agencies under such act or acts of Congress, which agreements shall become effective ten (10) days after publication thereof in the manner provided in Section 71-5-117 for general rules, to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this chapter, acquired rights to unemployment compensation under such act or acts of Congress or who have, after acquiring potential rights to unemployment compensation under such act or acts of Congress, acquired rights to benefits under this chapter.

(g) Service performed in any calendar quarter in the employ of any organization exempt from income tax under the Internal Revenue Code, 26 USCS Section 501(a) (other than an organization described in 26 USCS Section 401(a)), or exempt from income tax under 26 USCS Section 521 if the remuneration for such service is less than Fifty Dollars (\$50.00).

(h) Service performed in the employ of a school, college, or university if such service is performed:

(i) By a student who is enrolled and is regularly attending classes at such school, college or university, or

(ii) By the spouse of such a student if such spouse is advised, at the time such spouse commences to perform such service, that

(A) The employment of such spouse to perform such service is provided under a program to provide financial assistance to such student by such school, college, or university, and

(B) Such employment will not be covered by any program of unemployment insurance.

(i) Service performed by an individual under the age of twenty-two (22) who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, as a student in a full-time program taken for credit at such institution, which combines academic instruction with work experience, if such service is an integral part of such program and such institution has so certified to the employer, except that this subparagraph shall not apply to service performed in a program established for or on behalf of an employer or group of employers.

(j) Service performed in the employ of a hospital, if such service is performed by a patient of the hospital, as defined in subsection* * * M of this section.

(k) Service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to state law; and services performed as an intern in the employ of a hospital by an individual who has completed a four-year

course in a medical school chartered or approved pursuant to state law.

(l) Service performed by an individual as an insurance agent or as an insurance solicitor, if all such service performed by such individual is performed for remuneration solely by way of commission.

(m) Service performed by an individual in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution, except those employed by political subdivisions, state and local governments, nonprofit organizations and Indian tribes, as defined by this chapter, or any other entities for which coverage is required by federal statute and regulation.

(n) If the services performed during one-half (1/2) or more of any pay period by an employee for the employing unit employing him constitute employment, all the services of such employee for such period shall be deemed to be employment; but if the services performed during more than one-half (1/2) of any such pay period by an employee for the employing unit employing him do not constitute employment, then none of the services of such employee for such period shall be deemed to be employment. As used in this subsection, the term "pay period" means a period (of not more than thirty-one (31) consecutive days) for which a payment of remuneration is ordinarily made to the employee by the employing unit employing him.

(o) Service performed by a barber or beautician whose work station is leased to him or her by the owner of the shop in which he or she works and who is compensated directly by the patrons he or she serves and who is free from direction and control by the lessor.

(p) Service performed by a "direct seller" if:

(i) Such person is engaged in the trade or business of selling (or soliciting the sale of) consumer products to any buyer on a buy-sell basis, a deposit-commission basis, or any similar basis which the department prescribes by regulations, for resale (by the buyer or any other person) in the home or otherwise than in a permanent retail establishment; or such person is engaged in the trade or business of selling (or soliciting the sale of) consumer products in the home or otherwise than in a permanent retail establishment;

(ii) Substantially all the remuneration (whether or not paid in cash) for the performance of the services described in item (i) of this subparagraph is directly related to sales or other output (including the performance of services) rather than to the number of hours worked; and

(iii) The services performed by the person are performed pursuant to a written contract between such person and the person for whom the services are performed and such contract provides that the person will not be treated as an employee with respect to such services for federal tax purposes.

* * * J. "Employment office" means a free public employment office or branch thereof, operated by this state or maintained as a part of the state controlled system of public employment offices.

* * * K. "Public employment service" means the operation of a program that offers free placement and referral services to applicants and employers, including job development.

* * * L. "Fund" means the Unemployment Compensation Fund established by this chapter, to which all contributions required and from which all benefits provided under this chapter shall be paid.

* * * M. "Hospital" means an institution which has been licensed, certified, or approved by the State Department of Health as a hospital.

* * * N. "Institution of higher learning," for the purposes of this section, means an educational institution which:

(1) Admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

(2) Is legally authorized in this state to provide a program of education beyond high school;

(3) Provides an educational program for which it awards a bachelor's or higher degree, or provides a program which is acceptable for full credit toward such a degree, a program of postgraduate or postdoctoral studies, or a program of training to prepare students for gainful employment in a recognized occupation;

(4) Is a public or other nonprofit institution;

(5) Notwithstanding any of the foregoing provisions of this subsection, all colleges and universities in this state are institutions of higher learning for purposes of this section.

O. "Re-employment assistance" means money payments payable to an individual as provided in this chapter and in accordance with Section 3304(a) (4) and 3306(h) of the Federal Unemployment Tax Act and Section 303(a) (5) of the Social Security Act, with respect to his unemployment through no fault of his own. Wherever the terms "benefits" or "unemployment benefits" appear in this chapter, they shall mean re-employment assistance.

P. (1) "State" includes, in addition to the states of the United States of America, the District of Columbia, Commonwealth of Puerto Rico and the Virgin Islands.

(2) The term "United States" when used in a geographical sense includes the states, the District of Columbia, Commonwealth of Puerto Rico and the Virgin Islands.

(3) The provisions of paragraphs (1) and (2) of subsection P, as including the Virgin Islands, shall become effective on the day after the day on which the United States Secretary of Labor approves for the first time under Section 3304(a) of the Internal Revenue Code of 1954 an unemployment compensation law submitted to the secretary by the Virgin Islands for such approval.

Q. "Unemployment."

(1) An individual shall be deemed "unemployed" in any week during which he performs no services and with respect to which no wages are payable to him, or in any week of less than full-time work if the wages payable to him with respect to such week are less than his weekly benefit amount as computed and adjusted in Section 71-5-505. The department shall prescribe regulations applicable to unemployed individuals, making such distinctions in the procedure as to total unemployment, part-total unemployment, partial unemployment of individuals attached to their regular jobs, and other forms of short-time work, as the department deems necessary.

(2) An individual's week of total unemployment shall be deemed to commence only after his registration at an employment office, except as the department may by regulation otherwise prescribe.

R. (1) "Wages" means all remuneration for personal services, including commissions and bonuses and the cash value of all remuneration in any medium other than cash, except that "wages," for purposes of determining employer's coverage and payment of contributions for agricultural and domestic service means cash remuneration only. The reasonable cash value of remuneration in any medium other than cash shall be estimated and determined in accordance with rules prescribed by the department; however, that the term "wages" shall not include:

(a) The amount of any payment made to, or on behalf of, an employee under a plan or system established by an employer which makes provision for his employees generally or for a class or classes of his employees (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment), on account of:

(i) Retirement, or

(ii) Sickness or accident disability, or

(iii) Medical or hospitalization expenses in connection with sickness or actual disability, or

(iv) Death, provided the employee:

(A) Has not the option to receive, instead of provision for such death benefit, any part of such payment or, if such death benefit is insured, any part of the premiums (or contributions to premiums) paid by his employer, and

(B) Has not the right, under the provisions of the plan or system or policy of insurance providing for such death benefit, to assign such benefit or to receive a cash consideration in lieu of such benefit, either upon his withdrawal from the plan or system providing for such benefit or upon termination of such plan or system or policy of insurance or of his employment with such employer;

(b) Dismissal payments which the employer is not legally required to make;

(c) Payment by an employer (without deduction from the remuneration of an employee) of the tax imposed by the Internal Revenue Code, 26 USCS Section 3101;

(d) From and after January 1, 1992, the amount of any payment made to or on behalf of an employee for a "cafeteria" plan, which meets the following requirements:

(i) Qualifies under Section 125 of the Internal Revenue Code;

(ii) Covers only employees;

(iii) Covers only noncash benefits;

(iv) Does not include deferred compensation plans.

(2) [Not enacted].

S. "Week" means calendar week or such period of seven (7) consecutive days as the department may by regulation prescribe. The department may by regulation prescribe that a week shall be deemed to be in, within, or during any benefit year which includes any part of such week.

T. "Insured work" means "employment" for "employers."

U. The term "includes" and "including," when used in a definition contained in this chapter, shall not be deemed to exclude other things otherwise within the meaning of the term defined.

V. "Employee leasing arrangement" means any agreement between an employee leasing firm and a client, whereby specified client responsibilities such as payment of wages, reporting of wages for unemployment insurance purposes, payment of unemployment insurance contributions and other such administrative duties are to be performed by an employee leasing firm, on an ongoing basis.

W. "Employee leasing firm" means any entity which provides specified duties for a client company such as payment of wages, reporting of wages for unemployment insurance purposes, payment of unemployment insurance contributions and other administrative duties, in connection with the client's employees, that are directed and controlled by the client and that are providing ongoing services for the client.

X. (1) "Temporary help firm" means an entity which hires its own employees and provides those employees to other individuals or organizations to perform some service, to support or supplement the existing workforce in special situations such as employee absences, temporary skill shortages, seasonal workloads and special assignments and projects, with the expectation that the worker's position will be terminated upon the completion of the specified task or function.

(2) "Temporary employee" means an employee assigned to work for the clients of a temporary help firm.

Y. For the purposes of this chapter, the term "notice" shall include any official communication, statement or other correspondence required under the administration of this chapter, and sent by the department through the United States Postal Service or electronic or digital transfer, via modem or the Internet.

SECTION 4. Section 71-5-19, Mississippi Code of 1972, is amended as follows:

71-5-19. (1) Whoever makes a false statement or representation knowing it to be false, or knowingly fails to disclose a material fact, to obtain or increase any benefit or other payment under this chapter or under an employment security law of any other state, of the federal government or of a foreign government, either for himself or for any other person, shall be punished by a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00), or by imprisonment for not longer than thirty (30) days, or by both such fine and imprisonment; and each such false statement or representation or failure to disclose a material fact shall constitute a separate offense.

(2) Any employing unit, any officer or agent of an employing unit or any other person who makes a false statement or representation knowing it to be false, or who knowingly fails to disclose a material fact, to prevent or reduce the payment of benefits to any individual entitled thereto, or to avoid becoming or remaining subject hereto, or to avoid or reduce any contribution or other payment required from any employing unit under this chapter, or who willfully fails or refuses to make any such contribution or other payment, or to furnish any reports required hereunder or to produce or permit the inspection or copying of records as required hereunder, shall be punished by a fine of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00), or by imprisonment for not longer than sixty (60) days, or by both such fine and imprisonment; and each such false statement, or representation, or failure to disclose a material fact, and each day of such failure or refusal shall constitute a separate offense. In lieu of such fine and imprisonment, the employing unit or representative, or both employing unit and representative, if such representative is an employing unit

in this state and is found to be a party to such violation, shall not be eligible for a contributions rate of less than five and four-tenths percent (5.4%) for the tax year in which such violation is discovered by the department and for the next two (2) succeeding tax years.

(3) Any person who shall willfully violate any provision of this chapter or any other rule or regulation thereunder, the violation of which is made unlawful or the observance of which is required under the terms of this chapter and for which a penalty is neither prescribed herein nor provided by any other applicable statute, shall be punished by a fine of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00), or by imprisonment for not longer than sixty (60) days, or by both such fine and imprisonment; and each day such violation continues shall be deemed to be a separate offense. In lieu of such fine and imprisonment, the employing unit or representative, or both employing unit and representative, if such representative is an employing unit in this state and is found to be a party to such violation, shall not be eligible for a contributions rate of less than five and four-tenths percent (5.4%) for the tax year in which the violation is discovered by the department and for the next two (2) succeeding tax years.

(4) (a) An overpayment of benefits occurs when a person receives benefits under this chapter:

(i) While any conditions for the receipt of benefits imposed by this chapter were not fulfilled in his case;

(ii) While he was disqualified from receiving benefits;
or

(iii) When such person receives benefits and is later found to be disqualified or ineligible for any reason, including, but not limited to, a redetermination or reversal by the department or the courts of a previous decision to award such person benefits.

(b) Any person receiving an overpayment shall, in the discretion of the department, be liable to have such sum deducted from any future benefits payable to him under this chapter and shall be liable to repay to the department for the Unemployment Compensation Fund a sum equal to the overpayment amount so received by him; and such sum shall be collectible in the manner provided in Sections 71-5-363 through 71-5-383

for the collection of past-due contributions. In addition to Sections 71-5-363 through 71-5-383, the following shall apply to cases involving damages for overpaid unemployment benefits which have been obtained and/or received through fraud as defined by department regulations and laws governing the department. By definition, fraud can include failure to report earnings while filing for unemployment benefits. In the event of fraud, a penalty of twenty percent (20%) of the amount of the overpayment shall be assessed. Three-fourths (3/4) of that twenty percent (20%) penalty shall be deposited into the unemployment trust fund and shall be used only for the purpose of payment of unemployment benefits. The remainder of that twenty percent (20%) penalty shall be deposited into the Special Employment Security Administrative Fund. Interest on the overpayment balance shall accrue at a rate of one percent (1%) per month on the unpaid balance until repaid and shall be deposited into the Special Employment Security Administration Fund. All interest, penalties and damages deposited into the Special Employment Security Administration Fund shall be used by the department for administration of the Mississippi Department of Employment Security.

(c) Any such judgment against such person for collection of such overpayment shall be in the form of a seven-year renewable lien. Unless action be brought thereon prior to expiration of the lien, the department must refile the notice of the lien prior to its expiration at the end of seven (7) years. There shall be no limit upon the number of times the department may refile notices of liens for collection of overpayments.

(d) All warrants issued by the department for the collection of any unemployment tax or for an overpayment of benefits imposed by statute and collected by the department shall be used to levy on salaries, compensation or other monies due the delinquent employer or claimant. No such warrant shall be issued until after the delinquent employer or claimant has exhausted all appeal rights associated with the debt. The warrants shall be served by mail or by delivery by an agent of the department on the person or entity responsible or liable for the payment of the monies due the delinquent employer or claimant. Once served, the employer or other person owing compensation due the delinquent employer or claimant shall pay the monies over to the department in complete or partial satisfaction of the liability. An answer shall be made within

thirty (30) days after service of the warrant in the form and manner determined satisfactory by the department. Failure to pay the money over to the department as required by this section shall result in the served party being personally liable for the full amount of the monies owed and the levy and collection process may be issued against the party in the same manner as other debts owed to the department. Except as otherwise provided by this section, the answer, the amount payable under the warrant and the obligation of the payor to continue payment shall be governed by the garnishment laws of this state but shall be payable to the department.

(5) The department, by agreement with another state or the United States, as provided under Section 303(g) of the Social Security Act, may recover any overpayment of benefits paid to any individual under the laws of this state or of another state or under an unemployment benefit program of the United States. Any overpayments subject to this subsection may be deducted from any future benefits payable to the individual under the laws of this state or of another state or under an unemployment program of the United States.

SECTION 5. Section 71-5-351, Mississippi Code of 1972, is amended as follows:

71-5-351. (1) Contributions shall accrue and become payable by each employer for each calendar year in which he is subject to this chapter. Such contributions shall become due and be paid by each employer to the department for the fund each calendar quarter on or before the last day of the month next succeeding each calendar quarter in which the contributions accrue unless the employer has filed an election with the department to participate in the Mississippi Level Payment Plan (MLPP) and complies with the provision of the MLPP. The department may extend the due date of such contributions if the due date falls on a Saturday, Sunday or state or federal holiday. Such contributions shall not be deducted, in whole or in part, from the wages of individuals in such employer's employ.

(2) (a) Any employer who is a newly subject employer or any employer who meets the requirements of participation in the MLPP shall be allowed one (1) participation election per year. The department may by regulation establish exceptions to this rule as appropriate. The department shall establish by regulation the requirements for computation and adjustment

of compensation and shall compute the amount of payments that will be made quarterly and notify each employer before the first tax payment is due for the year. Equal payments will be made for calendar quarters ending March, June and September and settlement will be made for any overage or shortage at the time payment is due for the December quarter.

(b) An employer who meets the following criteria may participate in the MLPP:

(i) The employer has not been delinquent in filing unemployment reports or paying unemployment taxes to the department during the last two (2) calendar years and must make current all other delinquent unemployment taxes and reports;

(ii) The employer has been an employer subject to the unemployment laws of the State of Mississippi, or in accordance with department regulations regarding MLPP, for at least twelve (12) months prior to the year the employer starts participating;

(iii) The employer must agree to file reports through the department's online system or other agency prescribed electronic facility and pay electronically;

(iv) The employer remains current in filing and paying taxes; and

(v) The employer must make the election by April 1 of the year.

(c) Employers who participate in the MLPP and pay their contribution by bank draft shall utilize the pay schedule provided for in this paragraph. The pay schedule shall be as follows:

(i) January to March due date May 15;

(ii) April to June due date August 15;

(iii) July to September due date November 15; and

(iv) October to December due date January 31.

(d) In the event the computed Size of Fund Index (SOFI) for any rate year computation falls below one percent (1.0%), the additional fifteen (15) days' delay provided for bank draft customers will be suspended for that year.

(3) For purposes of payment of contributions on remuneration paid to individuals, if two (2) or more related corporations

concurrently employ the same individual and compensate such individual through a common paymaster which is one of such corporations, each such corporation shall be considered to have paid as remuneration to such individual only the amounts actually disbursed by it to such individual and shall not be considered to have paid as remuneration to such individual such amounts actually disbursed to such individual by another of such corporations.

In the payment of any contributions, a fractional part of a cent shall be disregarded unless it amounts to One-half Cent (1/2¢) or more, in which case it shall be increased to One Cent (1¢).

(4) For the purposes of this section and Sections 71-5-353, 71-5-357 and 71-5-359, taxable wages shall not include that part of remuneration which, after remuneration equal to Seven Thousand Dollars (\$7,000.00) through December 31, 2010, and Fourteen Thousand Dollars (\$14,000.00) thereafter, has been paid in a calendar year to an individual by an employer or his predecessor with respect to employment during any calendar year, is paid to such individual by such employer during such calendar year unless that part of the remuneration is subject to a tax under a federal law imposing a tax against which credit may be taken for contributions required to be paid into a state employment fund. For the purposes of this section, the term "employment" shall include service constituting employment under any unemployment compensation law of another state.

(5) Absent evidence of willful or fraudulent attempt to avoid taxation, the effective date of liability of an employer or assessment of liability for covered employment against an employer shall not occur for any period preceding the three (3) calendar years before the date of registration or assessment, unless said three-year limitations period is waived by the employer.

(6) The executive director may grant a reasonable extension of time beyond the statutory due date within which to file any report required by this section to an employer located in an area included in a declaration of an emergency or disaster by the President or the Governor. The executive director may, in his discretion, recognize extensions of time authorized and granted by the Internal Revenue Service for the filing of tax returns.

SECTION 6. Section 71-5-353, Mississippi Code of 1972, is amended as follows:

71-5-353. (1) (a) Each employer shall pay contributions equal to five and four-tenths percent (5.4%) of taxable wages paid by him each calendar year, except as may be otherwise provided in Section 71-5-361 and except that each newly subject employer shall pay contributions at the rate of two and four-tenths percent (2.4%) of taxable wages through December 31, 2010, and thereafter one percent (1%) of taxable wages, for his first year of liability, one and one-tenth percent (1.1%) of taxable wages for his second year of liability, and one and two-tenths percent (1.2%) of taxable wages for his third and subsequent years of liability unless the employer's experience-rating record has been chargeable throughout at least the twelve (12) consecutive calendar months ending on the most recent computation date at the time the rate for a year is determined; thereafter the employer's contribution rate shall be determined in accordance with the provisions of Section 71-5-355.

(b) Notwithstanding the newly subject employer contribution rate provided for in paragraph (a) of this subsection, if this act becomes effective before March 8, 2013, the contribution rate of all newly subject employers shall be reduced by seven one-hundredths of one percent (.07%) for calendar year 2013 only. If this act becomes effective from and after March 8, 2013, the contribution rate of all newly subject employers shall be reduced by seven one-hundredths of one percent (.07%) for calendar year 2014 only. The general experience rate decrease provided for in this paragraph (b) shall be effective for only one (1) calendar year. For purposes of this paragraph (b), "newly subject employers" means employers whose unemployment insurance experience-rating record has been chargeable throughout at least the twelve (12) consecutive calendar months ending on the most recent computation date at the time the contribution rate for a year is determined.

(2) From and after January 1, 2005, through December 31, 2009, contribution rates assigned to employers by the department, as determined pursuant to Sections 71-5-351, 71-5-353 and 71-5-355, shall be reduced by three-tenths of one percent (.3%). Such reduction shall only apply to employers whose contribution rate, determined in accordance with

Sections 71-5-353 and 71-5-355, is equal to or less than five and four-tenths percent (5.4%), and shall include a three-tenths of one percent (.3%) reduction to the rate as a result of violation of provisions of this chapter. The reduction in rates provided for herein shall not apply to state boards, instrumentalities and political subdivisions of the State of Mississippi referred to in Sections 71-5-357 and 71-5-359, or to nonprofit employers providing reimbursement to the department for the unemployment fund pursuant to Section 71-5-357(a).

(3) (a) From and after January 1, 2005, through December 31, 2009, the workforce enhancement contributions shall be applied at a rate of three-tenths of one percent (.3%) upon the taxable wages, however, the workforce enhancement contribution shall not be applied to state boards, instrumentalities and political subdivisions of the State of Mississippi referred to in Sections 71-5-357 and 71-5-359, or to nonprofit employers providing reimbursement to the department for the unemployment fund pursuant to Section 71-5-357(a).

(b) There is hereby created in the Treasury of the State of Mississippi a special fund to be known as the "Mississippi Workforce Enhancement Training Fund," which consists of funds collected pursuant to this subsection (3) and subsection (4) of this section. Funds collected shall initially be deposited into the Mississippi Department of Employment Security tax bank account for clearing contribution collections and subsequently transferred to the Mississippi Workforce Enhancement Training Fund holding account described in Section 71-5-453. In the event any employer pays an amount insufficient to cover the total contributions due, the amounts due shall be satisfied in the following order:

- (i) Unemployment contributions;
- (ii) Workforce enhancement training contributions;
- (iii) Interest and damages; then
- (iv) Legal and processing costs.

The amount of contributions due for any period will be the amount due according to the actual computations unless the employer is participating in the MLPP. In that event, the amount due is the MLPP amount computed by the department.

Cost of collection and administration of the workforce enhancement training contribution shall be allocated based on a plan approved by the United States Department of Labor (USDOL) and shall be paid to the Mississippi Department of Employment Security semiannually by the* * * Mississippi Community College Board for periods ending in December and June of each year. Payment shall be made to the department no later than sixty (60) days after the billing date.

(c) All monies collected will be initially deposited into the Mississippi Department of Employment Security bank account for clearing contribution collections and subsequently transferred to the Mississippi Workforce Enhancement Training Fund holding account and will be held by the Mississippi Department of Employment Security in such account for a period of not less than sixty (60) days. After such period, funds shall be transferred within thirty (30) days to the Mississippi Workforce Enhancement Training Fund in a manner determined by the department. Interest earnings or interest credits on deposit amounts shall be retained in the holding account to pay the banking costs of the account. If after the period of twelve (12) months interest earnings less banking costs exceeds Ten Thousand Dollars (\$10,000.00), such excess amounts shall be transferred to the Mississippi Workforce Enhancement Training Fund treasury account within thirty (30) days. Such transfers shall occur once annually, during the month of January.

(d) All enforcement procedures for the collection of delinquent contributions contained in Sections 71-5-363 through 71-5-383 shall be applicable in all respects for collections of delinquent contributions designated for the Unemployment Compensation Fund and the Mississippi Workforce Enhancement Training Fund.

(e) All monies deposited into the Mississippi Workforce Enhancement Training Fund shall be utilized exclusively by the* * * Mississippi Community College Board in accordance with the Workforce Training Act of 1994 (Section 37-153-1 et seq.) and the annual plan developed by the State Workforce Investment Board for the following purposes: to provide training at no charge to employers and employees in order to enhance employee productivity. Such training may be subject to a minimal administrative fee to be paid from the Mississippi Workforce Enhancement Training Fund as established by the

State Workforce Investment Board subject to the advice of the* * * Mississippi Community College Board. The initial priority of these funds shall be for the benefit of existing businesses located within the state. Employers may request training for existing employees and/or newly hired employees from the* * * Mississippi Community College Board. The* * * Mississippi Community College Board will be responsible for approving the training.

(4) The following procedure shall apply for tax years subsequent to December 31, 2009:

(a) (i) Except as otherwise provided in this paragraph, workforce enhancement training contributions shall be collected at a rate of three-tenths of one percent (.3%) through December 31, 2010, based upon taxable wages, and at a rate of fifteen one-hundredths of one percent (.15%) thereafter, based upon taxable wages.

(ii) If this act becomes effective before March 8, 2013, the contribution rate to the Workforce Enhancement Training Fund for calendar year 2013 only shall be twenty-two one-hundredths of one percent (.22%). If this act becomes effective from and after March 8, 2013, the contribution rate to the Workforce Enhancement Training Fund for calendar year 2014 shall be twenty-two one-hundredths of one percent (.22%). The contribution rate to the Workforce Enhancement Training Fund provided for in this subparagraph shall be effective for only one (1) calendar year.

(iii) Training contributions shall be reduced by the amount necessary to prevent any employer from having a combined rate greater than five and four-tenths percent (5.4%).

(b) All workforce enhancement training contributions collected shall be deposited initially into the Mississippi Department of Employment Security bank account for clearing contribution collections and shall within two (2) business days be transferred to the Workforce Enhancement Training Fund holding account. Any workforce enhancement training contribution transactions from the Mississippi Department of Employment Security account for clearing contribution collections that are deposited into the Workforce Enhancement Training Fund holding account and are not honored by a financial institution will be transferred back to the Mississippi Department of Employment Security account for clearing

contribution collections out of funds in the Workforce Enhancement Training Fund holding account.

(c) For rate years subsequent to December 31, 2009, suspension of the workforce enhancement training contributions required pursuant to this subsection (4) shall occur if the insured unemployment rate exceeds an average of five and five-tenths percent (5.5%) for the three (3) consecutive months immediately preceding the effective date of the new rate year and shall remain suspended throughout the duration of that rate year. Such suspension shall continue until such time as the three (3) consecutive months immediately preceding the effective date of any subsequent rate year has an insured unemployment rate of less than an average of four and five-tenths percent (4.5%).

(5) All collections due or accrued prior to any suspension of the Workforce Enhancement Training Fund will be collected based upon the law at the time the contributions accrued, regardless of when they are actually due or collected.

SECTION 7. Section 71-5-355, Mississippi Code of 1972, is amended as follows:

71-5-355. (1) As used in this section, the following words and phrases shall have the following meanings, unless the context clearly requires otherwise:

(a) "Tax year" means any period beginning on January 1 and ending on December 31 of a year.

(b) "Computation date" means June 30 of any calendar year immediately preceding the tax year during which the particular contribution rates are effective.

(c) "Effective date" means January 1 of the tax year.

(d) Except as hereinafter provided, "payroll" means the total of all wages paid for employment by an employer as defined in Section 71-5-11, subsection* * * H, plus the total of all remuneration paid by such employer excluded from the definition of wages by Section 71-5-351. For the computation of modified rates, "payroll" means the total of all wages paid for employment by an employer as defined in Section 71-5-11, subsection* * * H.

(e) For the computation of modified rates, "eligible employer" means an employer whose experience-rating record has been chargeable with benefits throughout the thirty-six (36)

consecutive calendar-month period ending on the computation date, except that any employer who has not been subject to the Mississippi Employment Security Law for a period of time sufficient to meet the thirty-six (36) consecutive calendar-month requirement shall be an eligible employer if his experience-rating record has been chargeable throughout not less than the twelve (12) consecutive calendar-month period ending on the computation date. No employer shall be considered eligible for a contribution rate less than five and four-tenths percent (5.4%) with respect to any tax year, who has failed to file any two (2) quarterly reports within the qualifying period by September 30 following the computation date. No employer or employing unit shall be eligible for a contribution rate of less than five and four-tenths percent (5.4%) for the tax year in which the employing unit is found by the department to be in violation of Section 71-5-19(2) or (3) and for the next two (2) succeeding tax years. No representative of such employing unit who was a party to a violation as described in Section 71-5-19(2) or (3), if such representative was or is an employing unit in this state, shall be eligible for a contribution rate of less than five and four-tenths percent (5.4%) for the tax year in which such violation was detected by the department and for the next two (2) succeeding tax years.

(f) With respect to any tax year, "reserve ratio" means the ratio which the total amount available for the payment of benefits in the Unemployment Compensation Fund, excluding any amount which has been credited to the account of this state under Section 903 of the Social Security Act, as amended, and which has been appropriated for the expenses of administration pursuant to Section 71-5-457 whether or not withdrawn from such account, on October 31 (close of business) of each calendar year bears to the aggregate of the taxable payrolls of all employers for the twelve (12) calendar months ending on June 30 next preceding.

(g) "Modified rates" means the rates of employer contributions determined under the provisions of this chapter and the rates of newly subject employers, as provided in Section 71-5-353.

(h) For the computation of modified rates, "qualifying period" means a period of not less than the thirty-six (36) consecutive calendar months ending on the computation date

throughout which an employer's experience-rating record has been chargeable with benefits; except that with respect to any eligible employer who has not been subject to this article for a period of time sufficient to meet the thirty-six (36) consecutive calendar-month requirement, "qualifying period" means the period ending on the computation date throughout which his experience-rating record has been chargeable with benefits, but in no event less than the twelve (12) consecutive calendar-month period ending on the computation date throughout which his experience-rating record has been so chargeable.

(i) The "exposure criterion" (EC) is defined as the cash balance of the Unemployment Compensation Fund which is available for the payment of benefits as of November 16 of each calendar year or the next working day if November 16 falls on a holiday or a weekend, divided by the total wages, exclusive of wages paid by all state agencies, all political subdivisions, reimbursable nonprofit corporations, and tax-exempt public service employment, for the twelve-month period ending June 30 immediately preceding such date. The EC shall be computed to four (4) decimal places and rounded up if any fraction remains.

(j) The "cost rate criterion" (CRC) is defined as follows: Beginning with January 1974, the benefits paid for the twelve-month period ending December 1974 are summed and divided by the total wages for the twelve-month period ending on June 30, 1975. Similar ratios are computed by subtracting the earliest month's benefit payments and adding the benefits of the next month in the sequence and dividing each sum of twelve (12) months' benefits by the total wages for the twelve-month period ending on the June 30 which is nearest to the final month of the period used to compute the numerator. If December is the final month of the period used to compute the numerator, then the twelve-month period ending the following June 30 will be used for the denominator. Benefits and total wages used in the computation of the cost rate criterion shall exclude all benefits and total wages applicable to state agencies, political subdivisions, reimbursable nonprofit corporations, and tax-exempt PSE employment.

The CRC shall be computed as the average for the highest monthly value of the cost rate criterion computations during each of the economic cycles since the calendar year 1974 as defined by the National Bureau of Economic Research. The CRC

shall be computed to four (4) decimal places and any remainder shall be rounded up.

The CRC shall be adjusted only through annual computations and additions of future economic cycles.

(k) "Size of fund index" (SOFI) is defined as the ratio of the exposure criterion (EC) to the cost rate criterion (CRC). For years following December 31, 2009, the target size of fund index will be fixed at 1.0. If the insured unemployment rate (IUR) exceeds a four and five-tenths percent (4.5%) average for the most recent completed July to June period, the target SOFI will be .8 and will remain at that level until the computed SOFI (the average exposure criterion of the current year and the preceding year divided by the average cost rate criterion) equals 1.0 or the average IUR falls to four and five-tenths percent (4.5%) or less for any period July to June. However, if the IUR falls below two and five-tenths percent (2.5%) for any period July to June the target SOFI shall be 1.2 until such time as the computed SOFI is equal to or greater than 1.0 or the IUR is equal to or greater than two and five-tenths percent (2.5%), at which point the target SOFI shall return to 1.0.

(l) No employer's contribution rate shall exceed five and four-tenths percent (5.4%), nor be less than four-tenths of one percent (.4%). However, from and after January 1, 2005, through December 31, 2009, no employer's unemployment contribution rate shall be less than one-tenth of one percent (.1%). For years subsequent to calendar year 2010 the general experience rate in no event shall be less than two-tenths of one percent (.2%). For any year the general experience rate computes as an amount less than two-tenths of one percent (.2%) the general experience rate shall be established at two-tenths of one percent (.2%). From and after January 1, 2012, accrual rules shall apply for purposes of computing contribution rates including associated functions.

(m) The term "general experience rate" has the same meaning as the minimum tax rate.

(2) Modified rates:

(a) For any tax year, when the reserve ratio on the preceding November 16, in the case of any tax year, equals or exceeds three percent (3%), the modified rates, as hereinafter

prescribed, shall be in effect. In computation of this reserve ratio, any remainder shall be rounded down.

(b) Modified rates shall be determined for the tax year for each eligible employer on the basis of his experience-rating record in the following manner:

(i) The department shall maintain an experience-rating record for each employer. Nothing in this chapter shall be construed to grant any employer or individuals performing services for him any prior claim or rights to the amounts paid by the employer into the fund.

(ii) Benefits paid to an eligible individual shall be charged against the experience-rating record of his base period employers in the proportion to which the wages paid by each base period employer bears to the total wages paid to the individual by all the base period employers, provided that benefits shall not be charged to an employer's experience-rating record if the department finds that the individual:

1. Voluntarily left the employ of such employer without good cause attributable to the employer;

2. Was discharged by such employer for misconduct connected with his work;

3. Refused an offer of suitable work by such employer without good cause, and the department further finds that such benefits are based on wages for employment for such employer prior to such voluntary leaving, discharge or refusal of suitable work, as the case may be;

4. Had base period wages which included wages for previously uncovered services as defined in Section 71-5-511(e) to the extent that the Unemployment Compensation Fund is reimbursed for such benefits pursuant to Section 121 of Public Law 94-566;

5. Extended benefits paid under the provisions of Section 71-5-541 which are not reimbursable from federal funds shall be charged to the experience-rating record of base period employers;

6. Is still working for such employer on a regular part-time basis under the same employment conditions as hired. Provided, however, that benefits shall be charged against an employer if an eligible individual is paid benefits who is

still working for such employer on a part-time "as-needed" basis;

7. Was hired to replace a United States serviceman or servicewoman called into active duty and was laid off upon the return to work by that serviceman or servicewoman, unless such employer is a state agency or other political subdivision or instrumentality of the state;

8. Was paid benefits during any week while in training with the approval of the department, under the provisions of Section 71-5-513B, or for any week while in training approved under Section 236(a)(1) of the Trade Act of 1974, under the provisions of Section 71-5-513C; or

9. Is not required to serve the one-week waiting period as described in Section 71-5-505(2). In that event, only the benefits paid in lieu of the waiting period week may be noncharged.

(iii) Notwithstanding any other provision contained herein, an employer shall not be noncharged when the department finds that the employer or the employer's agent of record was at fault for failing to respond timely or adequately to the request of the department for information relating to an unemployment claim that was subsequently determined to be improperly paid, unless the employer or the employer's agent of record shows good cause for having failed to respond timely or adequately to the request of the department for information. For purposes of this subparagraph "good cause" means an event that prevents the employer or employer's agent of record from timely responding, and includes a natural disaster, emergency or similar event, or an illness on the part of the employer, the employer's agent of record, or their staff charged with responding to such inquiries when there is no other individual who has the knowledge or ability to respond. Any agency error that resulted in a delay in, or the failure to deliver notice to, the employer or the employer's agent of record shall also be considered good cause for purposes of this subparagraph.

(* * * iv) The department shall compute a benefit ratio for each eligible employer, which shall be the quotient obtained by dividing the total benefits charged to his experience-rating record during the period his experience-rating record has been chargeable, but not less than the twelve (12) consecutive calendar-month period nor more than the thirty-

six (36) consecutive calendar-month period ending on the computation date, by his total taxable payroll for the same period on which all contributions due have been paid on or before the September 30 immediately following the computation date. Such benefit ratio shall be computed to the tenth of a percent (.1%), rounding any remainder to the next higher tenth.

The following table shall be applied to reduce contribution rates from and after January 1, 2005, through December 31, 2009, and is not intended for use for any rate years subsequent to December 31, 2009:

Benefit Ratio	Individual Experience Rate:
0.0%	- 0.3%
0.1	- 0.2
0.2	- 0.10
0.3	0.0
0.4	0.1
0.5	0.2
0.6	0.3
0.7	0.4
0.8	0.5
0.9	0.6
1.0	0.7
1.1	0.8
1.2	0.9
1.3	1.0
1.4	1.1
1.5	1.2
1.6	1.3
1.7	1.4
1.8	1.5
1.9	1.6
2.0	1.7
2.1	1.8
2.2	1.9
2.3	2.0
2.4	2.1
2.5	2.2

2.6	2.3
2.7	2.4
2.8	2.5
2.9	2.6
3.0	2.7
3.1	2.8
3.2	2.9
3.3	3.0
3.4	3.1
3.5	3.2
3.6	3.3
3.7	3.4
3.8	3.5
3.9	3.6
4.0	3.7
4.1	3.8
4.2	3.9
4.3	4.0
4.4	4.1
4.5	4.2
4.6	4.3
4.7	4.4
4.8	4.5
4.9	4.6
5.0	4.7
5.1	4.8
5.2	4.9
5.3	5.0
5.4	5.1
5.5	5.2
5.6	5.3
5.7 and above	5.4

(* * * v) 1. The unemployment insurance contribution rate for each eligible employer shall be the sum of two (2) rates: his individual experience rate in the range from zero percent (0%) to five and four-tenths percent (5.4%), plus a general experience rate. In no event shall the resulting rate

be in excess of five and four-tenths percent (5.4%), however, it is the intent of this section to provide the ability for employers to have a tax rate, the general experience rate plus the individual experience rate, of up to five and four-tenths percent (5.4%).

2. The employer's individual experience rate shall be equal to his benefit ratio as computed under subsection (2) (b) (* * * iv) above.

3. The general experience rate shall be determined in the following manner: The department shall determine annually, for the thirty-six (36) consecutive calendar-month period ending on the computation date, the amount of benefits which were not charged to the record of any employer and of benefits which were ineffectively charged to the employer's experience-rating record. For the purposes of this item 3, the term "ineffectively charged benefits" shall include:

a. The total of the amounts of benefits charged to the experience-rating records of all eligible employers which caused their benefit ratios to exceed five and four-tenths percent (5.4%);

b. The total of the amounts of benefits charged to the experience-rating records of all ineligible employers which would cause their benefit ratios to exceed five and four-tenths percent (5.4%) if they were eligible employers; and

c. The total of the amounts of benefits charged or chargeable to the experience-rating record of any employer who has discontinued his business or whose coverage has been terminated within such period; provided, that solely for the purposes of determining the amounts of ineffectively charged benefits as herein defined, a "benefit ratio" shall be computed for each ineligible employer, which shall be the quotient obtained by dividing the total benefits charged to his experience-rating record throughout the period ending on the computation date, during which his experience-rating record has been chargeable with benefits, by his total taxable payroll for the same period on which all contributions due have been paid on or before the September 30 immediately following the computation date; and provided further, that such benefit ratio shall be computed to the tenth of one percent (.1%) and any remainder shall be rounded to the next higher tenth.

The ratio of the sum of these amounts (subsection (2)(b) (* * v) 3a, b and c) to the taxable wages paid during the same period divided by all eligible employers whose benefit ratio did not exceed five and four-tenths percent (5.4%), computed to the next higher tenth of one percent (.1%), shall be the general experience rate.

4. a. Except as otherwise provided in this item 4, the general experience rate shall be adjusted by use of the size of fund index factor. This factor may be positive or negative, and shall be determined as follows: From the target SOFI, as defined in subsection (1)(k) of this section, subtract the simple average of the current and preceding years' exposure criterions divided by the cost rate criterion, as defined in subsection (1)(j) of this section. The result is then multiplied by the product of the CRC, as defined in subsection (1)(j) of this section, and total wages for the twelve-month period ending June 30 divided by the taxable wages for the twelve-month period ending June 30. This is the percentage positive or negative added to the general experience rate. The sum of the general experience rate and the trust fund adjustment factor shall be multiplied by fifty percent (50%) and this product shall be computed to one (1) decimal place, and rounded to the next higher tenth.

b. Notwithstanding the minimum rate provisions as set forth in Section 71-5-355(1)(1), if this act becomes effective before March 8, 2013, the general experience rate of all employers shall be reduced by seven one hundredths of one percent (.07%) for calendar year 2013 only. If this act becomes effective from and after March 8, 2013, the general experience rate of all employers shall be reduced by seven one hundredths of one percent (.07%) for calendar year 2014 only. The general experience rate decrease provided for in this sub-item b shall be effective for only one (1) calendar year.

5. Notwithstanding any other provisions of subsection (2)(b) (* * v), if the general experience rate for any tax year as computed and adjusted on the basis of the size of fund index is a negative percentage, it shall be disregarded and in no year shall the general experience rate be less than two-tenths of one percent (.2%).

6. The department shall include in its annual rate notice to employers a brief explanation of the elements of

the general experience rate, and shall include in its regular publications an annual analysis of benefits not charged to the record of any employer, and of the benefit experience of employers by industry group whose benefit ratio exceeds four percent (4%), and of any other factors which may affect the size of the general experience rate.

(* * * vi) When any employing unit in any manner succeeds to or acquires the organization, trade, business or substantially all the assets thereof of an employer, excepting any assets retained by such employer incident to the liquidation of his obligations, whether or not such acquiring employing unit was an employer within the meaning of Section 71-5-11, subsection* * * H, prior to such acquisition, and continues such organization, trade or business, the experience-rating and payroll records of the predecessor employer shall be transferred as of the date of acquisition to the successor employer for the purpose of rate determination.

(* * * vii) When any employing unit succeeds to or acquires a distinct and severable portion of an organization, trade or business, the experience-rating and payroll records of such portion, if separately identifiable, shall be transferred to the successor upon:

1. The mutual consent of the predecessor and the successor;
2. Approval of the department;
3. Continued operation of the transferred portion by the successor after transfer; and
4. The execution and the filing with the department by the predecessor employer of a waiver relinquishing all rights to have the experience-rating and payroll records of the transferred portion used for the purpose of determining modified rates of contribution for such predecessor.

(* * * viii) If the successor was an employer subject to this chapter prior to the date of acquisition, it shall continue to pay contributions at the rate applicable to it from the date the acquisition occurred until the end of the then current tax year. If the successor was not an employer prior to the date of acquisition, it shall pay contributions at the rate applicable to the predecessor or, if more than one (1) predecessor and the same rate is applicable to both, the rate applicable to the predecessor or predecessors, from

the date the acquisition occurred until the end of the then current tax year. If the successor was not an employer prior to the date the acquisition occurred and simultaneously acquires the businesses of two (2) or more employers to whom different rates of contributions are applicable, it shall pay contributions from the date of the acquisition until the end of the current tax year at a rate computed on the basis of the combined experience-rating and payroll records of the predecessors as of the computation date for such tax year. In all cases the rate of contributions applicable to such successor for each succeeding tax year shall be computed on the basis of the combined experience-rating and payroll records of the successor and the predecessor or predecessors.

(* * * ix) The department shall notify each employer quarterly of the benefits paid and charged to his experience-rating record; and such notification, in the absence of an application for redetermination filed within thirty (30) days after the date of such notice, shall be final, conclusive and binding upon the employer for all purposes. A redetermination, made after notice and opportunity for a fair hearing, by a hearing officer designated by the department who shall consider and decide these and related applications and protests; and the finding of fact in connection therewith may be introduced into any subsequent administrative or judicial proceedings involving the determination of the rate of contributions of any employer for any tax year, and shall be entitled to the same finality as is provided in this subsection with respect to the findings of fact in proceedings to redetermine the contribution rate of an employer.

(* * * x) The department shall notify each employer of his rate of contribution as determined for any tax year as soon as reasonably possible after September 1 of the preceding year. Such determination shall be final, conclusive and binding upon such employer unless, within thirty (30) days after the date of such notice to his last known address, the employer files with the department an application for review and redetermination of his contribution rate, setting forth his reasons therefor. If the department grants such review, the employer shall be promptly notified thereof and shall be afforded an opportunity for a fair hearing by a hearing officer designated by the department who shall consider and decide these and related applications and protests; but no employer shall be allowed, in any proceeding involving his rate of

contributions or contribution liability, to contest the chargeability to his account of any benefits paid in accordance with a determination, redetermination or decision pursuant to Sections 71-5-515 through 71-5-533 except upon the ground that the services on the basis of which such benefits were found to be chargeable did not constitute services performed in employment for him, and then only in the event that he was not a party to such determination, redetermination, decision or to any other proceedings provided in this chapter in which the character of such services was determined. The employer shall be promptly notified of the denial of this application or of the redetermination, both of which shall become final unless, within ten (10) days after the date of notice thereof, there shall be an appeal to the department itself. Any such appeal shall be on the record before said designated hearing officer, and the decision of said department shall become final unless, within thirty (30) days after the date of notice thereof to the employer's last known address, there shall be an appeal to the Circuit Court of the First Judicial District of Hinds County, Mississippi, in accordance with the provisions of law with respect to review of civil causes by certiorari.

(3) Notwithstanding any other provision of law, the following shall apply regarding assignment of rates and transfers of experience:

(a) (i) If an employer transfers its trade or business, or a portion thereof, to another employer and, at the time of the transfer, there is substantially common ownership, management or control of the two (2) employers, then the unemployment experience attributable to the transferred trade or business shall be transferred to the employer to whom such business is so transferred. The rates of both employers shall be recalculated and made effective on January 1 of the year following the year the transfer occurred.

(ii) If, following a transfer of experience under subparagraph (i) of this paragraph (a), the department determines that a substantial purpose of the transfer of trade or business was to obtain a reduced liability of contributions, then the experience-rating accounts of the employers involved shall be combined into a single account and a single rate assigned to such account.

(b) Whenever a person who is not an employer or an employing unit under this chapter at the time it acquires the

trade or business of an employer, the unemployment experience of the acquired business shall not be transferred to such person if the department finds that such person acquired the business solely or primarily for the purpose of obtaining a lower rate of contributions. Instead, such person shall be assigned the new employer rate under Section 71-5-353. In determining whether the business was acquired solely or primarily for the purpose of obtaining a lower rate of contributions, the department shall use objective factors which may include the cost of acquiring the business, whether the person continued the business enterprise of the acquired business, how long such business enterprise was continued, or whether a substantial number of new employees were hired for performance of duties unrelated to the business activity conducted prior to acquisition.

(c) (i) If a person knowingly violates or attempts to violate paragraph (a) or (b) of this subsection or any other provision of this chapter related to determining the assignment of a contribution rate, or if a person knowingly advises another person in a way that results in a violation of such provision, the person shall be subject to the following penalties:

1. If the person is an employer, then such employer shall be assigned the highest rate assignable under this chapter for the rate year during which such violation or attempted violation occurred and the three (3) rate years immediately following this rate year. However, if the person's business is already at such highest rate for any year, or if the amount of increase in the person's rate would be less than two percent (2%) for such year, then a penalty rate of contributions of two percent (2%) of taxable wages shall be imposed for such year. The penalty rate will apply to the successor business as well as the related entity from which the employees were transferred in an effort to obtain a lower rate of contributions.

2. If the person is not an employer, such person shall be subject to a civil money penalty of not more than Five Thousand Dollars (\$5,000.00). Each such transaction for which advice was given and each occurrence or reoccurrence after notification being given by the department shall be a separate offense and punishable by a separate penalty.

Any such fine shall be deposited in the penalty and interest account established under Section 71-5-114.

(ii) For purposes of this paragraph (c), the term "knowingly" means having actual knowledge of or acting with deliberate ignorance or reckless disregard for the prohibition involved.

(iii) For purposes of this paragraph (c), the term "violates or attempts to violate" includes, but is not limited to, intent to evade, misrepresentation or willful nondisclosure.

(iv) In addition to the penalty imposed by subparagraph (i) of this paragraph (c), any violation of this subsection may be punishable by a fine of not more than Ten Thousand Dollars (\$10,000.00) or by imprisonment for not more than five (5) years, or by both such fine and imprisonment. This subsection shall prohibit prosecution under any other criminal statute of this state.

(d) The department shall establish procedures to identify the transfer or acquisition of a business for purposes of this subsection.

(e) For purposes of this subsection:

(i) "Person" has the meaning given such term by Section 7701(a)(1) of the Internal Revenue Code of 1986; and

(ii) "Employing unit" has the meaning as set forth in Section 71-5-11.

(f) This subsection shall be interpreted and applied in such a manner as to meet the minimum requirements contained in any guidance or regulations issued by the United States Department of Labor.

SECTION 8. Section 71-5-367, Mississippi Code of 1972, is amended as follows:

71-5-367. If an employer shall file a report in proper form and in proper amount, but shall fail to pay the amount of contributions shown to be due thereby at the time of such filing, or if an employer shall fail to pay any assessment as provided and made under Section 71-5-365 within fifteen (15) days after such assessment has become final as herein provided, the* * * department may issue a warrant under its official seal, directed to the sheriff of any county of the state, commanding him to levy upon and sell the real and personal

property of such employer as has defaulted in the payment of such contributions or assessments, which may be found within his county, for the payment of the amount thereof, together with interest, damages, if any, assessed for failure to make and file a report or a corrected or sufficient report, and an additional sum not exceeding one hundred percent (100%) of the amount of the unpaid contributions due, in the discretion of the* * * department, as damages for failure to pay, if not already assessed under Section 71-5-365 and the costs of executing the warrant and to return such warrant to the* * * department, and to pay to it the money collected by virtue thereof on the date specified therein. The* * * department shall cause to be delivered to the clerk of the circuit court a copy of such warrant issued to the sheriff. Such clerk shall enter in the judgment roll, in the column for judgment debtors, the name of the employer mentioned in the warrant and, in appropriate columns, the amount of contributions, interest and damages for which the warrant is issued, a notation that the lien covers all previous, current and future periods for the life of the lien, and the date when such copy is filed. Thereupon the amount of such warrant so filed and entered shall become a lien upon the title to and interest in all real and personal property, including choses in action against negotiable instruments not past due, of the employer against whom the warrant is issued in the same manner as a judgment duly enrolled in the office of such clerk. Any such liens shall cover all contributions, interest and damages owed to the* * * department from previous, current and future periods until the expiration of such lien or until the amount of the lien is fully satisfied. Such judgment shall not be a lien upon the property of the employer for a period of more than seven (7) years from the date of filing of the notice of the tax lien for failure to pay contributions, damages and interest unless action be brought thereon before the expiration of such time or unless the* * * department refiles such notice of tax lien before the expiration of such time. The judgment shall be a lien upon the property of the employer for a period of seven (7) years from the date of refileing such notice of tax lien unless action be brought thereon before the expiration of such time or unless the* * * department refiles such notice of tax lien before the expiration of such time. There shall be no limit upon the number of times the* * * department may refile notices of tax liens. The sheriff shall proceed

upon the warrant in the same manner and with like effect as that provided by law in respect to executions issued against property upon judgments or in attachment proceedings of a court of record, and the remedies by garnishment shall apply; and for his services in executing the warrant the sheriff shall be entitled to the same fees, which he may collect in the same manner.

The* * * department may elect to issue the warrant directly to the circuit clerk of any county of this state for enrollment upon the judgment rolls of the county. In such case, the clerk shall enter in the judgment roll, in the column for judgment debtors, the name of the employer mentioned in the warrant and, in appropriate columns, the amount of contributions, interest and damages for which the warrant is issued, a notation that the lien covers all previous, current and future periods for the life of the lien, and the date when such warrant is filed. The lien shall have the same effect and remedies as that provided by law in respect to executions issued against property upon judgments or in attachment proceedings of a court of record, and the remedies by garnishment shall apply.

* * *

All warrants issued by the department for the collection of any unemployment tax or for an overpayment of benefits imposed by statute and collected by the department shall be used to levy on salaries, compensation or other monies due the delinquent employer or claimant. No such warrant shall be issued until after the delinquent employer or claimant has exhausted all appeal rights associated with the debt. The warrants shall be served by mail or by delivery by an agent of the department on the person or entity responsible or liable for the payment of the monies due the delinquent employer or claimant. Once served, the employer or other person owing compensation due the delinquent employer or claimant shall pay the monies over to the department in complete or partial satisfaction of the liability. An answer shall be made within thirty (30) days after service of the warrant in the form and manner determined satisfactory by the department. Failure to pay the money over to the department as required by this section shall result in the served party being personally liable for the full amount of the monies owed and the levy and collection process may be issued against the party in the same manner as other debts owed to the department. Except as

otherwise provided by this section, the answer, the amount payable under the warrant and the obligation of the payor to continue payment shall be governed by the garnishment laws of this state but shall be payable to the department.

SECTION 9. Section 71-5-389, Mississippi Code of 1972, is amended as follows:

71-5-389. (1) For the purposes of this section, the following terms shall have the respective meanings ascribed by this section:

(a) "Claimant agency" means the Mississippi Department of Employment Security.

(b) "Debtor" means any individual, corporation or partnership owing money or having a delinquent account with any claimant agency, which obligation has not been adjudicated satisfied by court order, set aside by court order, or discharged in bankruptcy.

(c) "Debt" means any sum due and owing any claimant agency, including costs, court costs, fines, penalties and interest which have accrued through contract, subrogation, tort, operation of law, or any other legal theory regardless of whether there is an outstanding judgment for that sum which is legally collectible and for which a collection effort has been or is being made.

(d) "Department" or "Department of Revenue" means the Department of Revenue of the State of Mississippi.

(e) "Refund" means the Mississippi income tax refund which the department determines to be due any individual taxpayer, corporation or partnership.

(2) The collection remedy authorized by this section is in addition to and is not substitution for any other remedy available by law.

(3) (a) A claimant agency may submit debts in excess of Twenty-five Dollars (\$25.00) owed to it to the department for collection through setoff, under the procedure established by this section, except in cases where the validity of the debt is legitimately in dispute, an alternate means of collection is pending and believed to be adequate, or such collection would result in a loss of federal funds or federal assistance.

(b) Upon the request of a claimant agency, the department shall set off any refund, as defined herein, against the sum certified by the claimant agency as provided in this section.

(4) (a) Within the time frame specified by the department, a claimant agency seeking to collect a debt through setoff shall supply the information necessary to identify each debtor whose refund is sought to be set off and certify the amount of debt or debts owed by each such debtor.

(b) If a debtor identified by a claimant agency is determined by the department to be entitled to a refund of at least Twenty-five Dollars (\$25.00), the department shall transfer an amount equal to the refund owed, not to exceed the amount of the claimed debt certified, to the claimant agency. The Department of Revenue shall send the excess amount to the debtor within a reasonable time after such excess is determined. At the time of the transfer of funds to a claimant agency pursuant to this paragraph (b), the Department of Revenue shall notify the taxpayer or taxpayers whose refund is sought to be set off that the transfer has been made. Such notice shall clearly set forth the name of the debtor, the manner in which the debt arose, the amount of the claimed debt, the transfer of funds to the claimant agency pursuant to this paragraph (b) and the intention to set off the refund against the debt, the amount of the refund in excess of the claimed debt, the taxpayer's opportunity to give written notice to contest the setoff within thirty (30) days of the date of mailing of the notice, the name and mailing address of the claimant agency to which the application for such a hearing must be sent, and the fact that the failure to apply for such a hearing, in writing, within the thirty-day period will be deemed a waiver of the opportunity to contest the setoff. In the case of a joint return or a joint refund, the notice shall also state the name of the taxpayer named in the return, if any, against whom no debt is claimed, the fact that a debt is not claimed against such taxpayer, the fact that such taxpayer is entitled to receive a refund if it is due him regardless of the debt asserted against his spouse, and that in order to obtain a refund due him such taxpayer must apply in writing for a hearing with the claimant agency named in the notice within thirty (30) days of the date of the mailing of the notice. If a taxpayer fails to apply in writing for such a hearing within thirty (30) days of the mailing of such notice, he will have waived his opportunity to contest the setoff.

(c) Upon receipt of funds transferred from the Department of Revenue pursuant to paragraph (b) of this subsection, the claimant agency shall deposit and hold such funds in an escrow account until a final determination of the validity of the debt.

(d) The claimant agency shall pay the Department of Revenue a fee, not to exceed Seventeen Dollars (\$17.00) in each case in which a tax refund is identified as being available for offset. Such fees shall be deposited by the Department of Revenue into a special fund hereby created in the State Treasury, out of which the Legislature shall appropriate monies to defray expenses of the Department of Revenue in employing personnel to administer the provisions of this section.

(5) (a) When the claimant agency receives a protest or an application in writing from a taxpayer within thirty (30) days of the notice issued by the Department of Revenue, the claimant agency shall set a date to hear the protest and give notice to the taxpayer* * * through the United States Postal Service or electronic digital transfer of the date so set. The time and place of such hearing shall be designated in such notice and the date set shall not be less than fifteen (15) days from the date of such notice. If, at the hearing, the sum asserted as due and owing is found not to be correct, an adjustment to the claim may be made. The claimant agency shall give notice to the debtor of its final determination as provided in paragraph (c) of this subsection.

(b) No issues shall be reconsidered at the hearing which have been previously litigated.

(c) If any debtor is dissatisfied with the final determination made at the hearing by the claimant agency, he may appeal the final determination to the circuit court of the county in which the main office of the claimant agency is located by filing notice of appeal with the administrative head of the claimant agency and with the clerk of the circuit court of the county in which the appeal shall be taken within thirty (30) days from the date the notice of final determination was given by the claimant agency.

(6) (a) Upon final determination of the amount of the debt due and owing by means of hearing or by the taxpayer's default through failure to comply with timely request for review, the claimant agency shall remove the amount of the debt due and

owing from the escrow account and credit such amount to the debtor's obligation.

(b) Upon transfer of the debt due and owing from the escrow account to the credit of the debtor's account, the claimant agency shall notify the debtor in writing of the finalization of the setoff. Such notice shall include a final accounting if the refund which was set off, including the amount of the refund to which the debtor was entitled prior to the setoff, the amount of the debt due and owing, the amount of the collection fee paid to the Department of Revenue, the amount of the refund in excess of the debt which was returned to the debtor by the Department of Revenue, and the amount of the funds transferred to the claimant agency in excess of the debt determined to be due and owing at a hearing, if such a hearing was held. At such time, the claimant agency shall refund to the debtor the amount of the claimed debt originally certified and transferred to it by the Department of Revenue in excess of the amount of debt finally found to be due and owing.

(7) (a) Notwithstanding the provision that prohibits disclosure by the Department of Revenue of the contents of taxpayer records or information and notwithstanding any other confidentiality statute, the Department of Revenue may provide to a claimant agency all information necessary to accomplish and effectuate the intent of the section.

(b) The information obtained by claimant agency from the Department of Revenue in accordance with the provisions of this section shall retain its confidentiality and shall only be used by a claimant agency in the pursuit of its debt collection duties and practices; and any employee or prior employee of any claimant agency who unlawfully discloses any such information for any other purpose, except as specifically authorized by law, shall be subject to the same penalties specified by law for unauthorized confidential information by an agent or employee of the Department of Revenue.

SECTION 10. Section 71-5-453, Mississippi Code of 1972, is amended as follows:

71-5-453. The* * * department shall be the* * * treasurer and custodian of the fund, and shall administer such fund in accordance with the directions of the department, and shall issue* * * its warrants upon it in accordance with such regulations as the department shall prescribe.* * * The department shall maintain within the fund three (3) separate

accounts: (a) a clearing account, (b) an unemployment trust fund account, and (c) a benefit payment account. All monies payable to the fund, upon receipt thereof by the department, shall be* * * immediately* * * deposited in the clearing account. Refunds payable pursuant to Section 71-5-383 may be paid from the clearing account* * * by the* * * department. Transfers pursuant to Section 71-5-114 of all interest, penalties and damages collected shall be made to the Special Employment Security Administration Fund as soon as practicable after the end of each calendar quarter. Workforce training enhancement contributions shall be deposited into the workforce enhancement training holding fund account as described in this section. All other monies in the clearing account shall be immediately deposited with the Secretary of the Treasury of the United States of America to the* * * Unemployment Trust Fund account for the state of Mississippi, established and maintained pursuant to Section 904 of the Social Security Act, as amended, any provisions of law in this state relating to the deposit, administration, release or disbursement of monies in the possession or custody of this state to the contrary notwithstanding. The benefit account shall consist of all monies requisitioned from this state's account in the Unemployment Trust Fund. Except as herein otherwise provided, monies in the clearing and benefit accounts may be deposited by the* * * department, in any bank or public depository in which general funds of the state may be deposited, but no public deposit insurance charge or premium shall be paid out of the fund. The* * * department shall be liable* * * for the faithful performance of* * * its duties in connection with the Unemployment Compensation Fund under this chapter. A Mississippi Workforce Training Enhancement Fund holding account shall be established by and maintained under the control of the* * * department. The workforce training enhancement contributions collected pursuant to the provisions in this chapter shall be transferred from the clearing account into the Mississippi Workforce Training Enhancement Fund holding account on the same schedule and under the same conditions as funds transferred to the Unemployment Compensation Fund. Such funds shall remain on deposit in the workforce training enhancement fund account for a period of sixty (60) days. After such period, contributions will be transferred to the Mississippi Workforce Enhancement Training Fund by the* * * department, within thirty (30) days. One such

transfer shall be made monthly, but the department, in its discretion, may make additional transfers in any month. In the event such funds transferred are subsequently determined to be erroneously paid or collected, or if deposit of such funds is denied or rejected by the banking institution for any reason, or deposits are unable to clear drawer's account for any reason, the funds must be reimbursed by the recipient of such funds within thirty (30) days of mailing of notice by the* * * department demanding such refund, unless funds are available in the workforce training enhancement fund holding account. In that event such amounts shall be immediately withdrawn from the workforce enhancement training holding fund account by the* * * department and redeposited into the clearing account.

SECTION 11. Section 71-5-455, Mississippi Code of 1972, is amended as follows:

71-5-455. Monies shall be requisitioned from this state's account in the Unemployment Trust Fund solely for the payment of benefits and in accordance with regulations prescribed by the* * * department, except that monies credited to this state's account pursuant to Section 903 of the Social Security Act, as amended, shall be used exclusively as provided in Section 71-5-457. No monies in the Unemployment Compensation Fund shall be used to pay interest on any funds that might be borrowed for the purposes of this chapter, but any such interest that might be due shall be paid from other sources. The* * * department shall from time to time requisition from the Unemployment Trust Fund such amounts, not exceeding the amount standing to this state's account therein, as it deems necessary for the payment of benefits for a reasonable future period.* * * Such sums shall be immediately deposited by the* * * department in some bank within this state in an account to be known as the "benefit payment account," which shall be under the control of the* * * department and on which said benefit payment account the* * * department or its duly authorized representative is authorized to draw and issue its checks in payment of benefits to individuals entitled thereto under this chapter. Expenditures of such monies in the benefit account and benefit payment account and refunds from the clearing account shall not be subject to any provisions of law requiring specific appropriations or other formal release by state officers of money in their custody. All warrants*

* * shall bear the signature of the* * * department's duly authorized agent for that purpose.

* * *

The department shall be subject to the applicable laws pertaining to security of public fund deposits as set forth in Sections 27-105-5 and 27-105-6.

SECTION 12. Section 71-5-505, Mississippi Code of 1972, is amended as follows:

71-5-505. (1) For weeks beginning on or after July 1, 1991, each eligible individual who is totally unemployed or part totally unemployed in any week shall be paid with respect to such week a benefit in an amount equal to his weekly benefit amount less that part of his wages, if any, payable to him with respect to such week which is in excess of Forty Dollars (\$40.00). Such individuals must have been totally unemployed or part totally unemployed for a waiting period of one (1) week during which he earned less than his weekly benefit amount plus Forty Dollars (\$40.00). Such benefit for a benefit year effective on or after October 1, 1983, if not a multiple of One Dollar (\$1.00), shall be computed to the next lower multiple of One Dollar (\$1.00). Provided, however, that remuneration for "inactive duty training" or "unit training assembly" payable to such eligible individual who is a member of any of the reserve components, or remuneration for jury duty pursuant to a lawfully issued summons therefor payable to such eligible individual, shall not be considered wages which serve to reduce the otherwise payable benefit amount.

In determining whether an eligible individual is unemployed during a week, the date of commencing a shift shall determine the week for which the earnings are deducted.

(2) However, the one-week waiting period described herein shall be waived if the President of the United States declares a major disaster with regard to individual assistance in accordance with Section 401 of The Robert T. Stafford Disaster Relief and Emergency Assistance Act. The department, in its discretion, shall have the authority to noncharge an employer account for any benefits paid for unemployment due directly to such disaster, but only in those counties and/or areas identified by the disaster area for individual assistance.

SECTION 13. Section 71-5-511, Mississippi Code of 1972, is amended as follows:

71-5-511. An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

(a) (i) He has registered for work at and thereafter has continued to report to the department in accordance with such regulations as the department may prescribe; except that the department may, by regulation, waive or alter either or both of the requirements of this subparagraph as to such types of cases or situations with respect to which it finds that compliance with such requirements would be oppressive or would be inconsistent with the purposes of this chapter; and

(ii) He participates in reemployment services, such as job search assistance services, if, in accordance with a profiling system established by the department, it has been determined that he is likely to exhaust regular benefits and needs reemployment services, unless the department determines that:

1. The individual has completed such services; or

2. There is justifiable cause for the claimant's failure to participate in such services.

(b) He has made a claim for benefits in accordance with the provisions of Section 71-5-515 and in accordance with such regulations as the department may prescribe thereunder.

(c) He is able to work* * *, available for work and actively seeking work.

(d) He has been unemployed for a waiting period of one (1) week. No week shall be counted as a week of unemployment for the purposes of this subsection:

(i) Unless it occurs within the benefit year which includes the week with respect to which he claims payment of benefits;

(ii) If benefits have been paid with respect thereto;

(iii) Unless the individual was eligible for benefits with respect thereto, as provided in Sections 71-5-511 and 71-5-513, except for the requirements of this subsection.

(e) For weeks beginning on or before July 1, 1982, he has, during his base period, been paid wages for insured work equal to not less than thirty-six (36) times his weekly benefit amount; he has been paid wages for insured work during at

least two (2) quarters of his base period; and he has, during that quarter of his base period in which his total wages were highest, been paid wages for insured work equal to not less than sixteen (16) times the minimum weekly benefit amount. For benefit years beginning after July 1, 1982, he has, during his base period, been paid wages for insured work equal to not less than forty (40) times his weekly benefit amount; he has been paid wages for insured work during at least two (2) quarters of his base period, and he has, during that quarter of his base period in which his total wages were highest, been paid wages for insured work equal to not less than twenty-six (26) times the minimum weekly benefit amount. For purposes of this subsection, wages shall be counted as "wages for insured work" for benefit purposes with respect to any benefit year only if such benefit year begins subsequent to the date on which the employing unit by which such wages were paid has satisfied the conditions of Section 71-5-11, subsection* * * H, or Section 71-5-361, subsection (3), with respect to becoming an employer.

(f) No individual may receive benefits in a benefit year unless, subsequent to the beginning of the next preceding benefit year during which he received benefits, he performed service in "employment" as defined in Section 71-5-11, subsection* * * I, and earned remuneration for such service in an amount equal to not less than eight (8) times his weekly benefit amount applicable to his next preceding benefit year.

(g) Benefits based on service in employment defined in Section 71-5-11, subsection* * * I(3) and* * * I(4), and Section 71-5-361, subsection (4) shall be payable in the same amount, on the same terms, and subject to the same conditions as compensation payable on the basis of other service subject to this chapter, except that benefits based on service in an instructional, research or principal administrative capacity in an institution of higher learning (as defined in Section 71-5-11, subsection* * * N) with respect to service performed prior to January 1, 1978, shall not be paid to an individual for any week of unemployment which begins during the period between two (2) successive academic years, or during a similar period between two (2) regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, if the individual has a contract or contracts to perform services in any such capacity for any

institution or institutions of higher learning for both such academic years or both such terms.

(h) Benefits based on service in employment defined in Section 71-5-11, subsection* * * I(3) and* * * I(4), shall be payable in the same amount, on the same terms and subject to the same conditions as compensation payable on the basis of other service subject to this chapter, except that:

(i) With respect to service performed in an instructional, research or principal administrative capacity for an educational institution, benefits shall not be paid based on such services for any week of unemployment commencing during the period between two (2) successive academic years, or during a similar period between two (2) regular but not successive terms, or during a period of paid sabbatical leave provided for in the individual's contract, to any individual, if such individual performs such services in the first of such academic years or terms and if there is a contract or a reasonable assurance that such individual will perform services in any such capacity for any educational institution in the second of such academic years or terms, and provided that subsection (g) of this section shall apply with respect to such services prior to January 1, 1978. In no event shall benefits be paid unless the individual employee was terminated by the employer.

(ii) With respect to services performed in any other capacity for an educational institution, benefits shall not be paid on the basis of such services to any individual for any week which commences during a period between two (2) successive academic years or terms, if such individual performs such services in the first of such academic years or terms and there is a reasonable assurance that such individual will perform such services in the second of such academic years or terms, except that if compensation is denied to any individual under this subparagraph and such individual was not offered an opportunity to perform such services for the educational institution for the second of such academic years or terms, such individual shall be entitled to a retroactive payment of compensation for each week for which the individual filed a timely claim for compensation and for which compensation was denied solely by reason of this clause. In no event shall benefits be paid unless the individual employee was terminated by the employer.

(iii) With respect to services described in subsection (h)(i) and (ii), benefits shall not be payable on the basis of services in any such capacities to any individual for any week which commences during an established and customary vacation period or holiday recess if such individual performs such services in the first of such academic years or terms, or in the period immediately before such vacation period or holiday recess, and there is a reasonable assurance that such individual will perform such services in the period immediately following such vacation period or holiday recess.

(iv) With respect to any services described in subsection (h)(i) and (ii), benefits shall not be payable on the basis of services in any such capacities as specified in subsection (h)(i), (ii) and (iii) to any individual who performed such services in an educational institution while in the employ of an educational service agency. For purposes of this subsection, the term "educational service agency" means a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing such services to one or more educational institutions.

(v) With respect to services to which Sections 71-5-357 and 71-5-359 apply, if such services are provided to or on behalf of an educational institution, benefits shall not be payable under the same circumstances and subject to the same terms and conditions as described in subsection (h)(i), (ii), (iii) and (iv).

(i) Subsequent to December 31, 1977, benefits shall not be paid to any individual on the basis of any services substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two (2) successive sports seasons (or similar periods) if such individual performs such services in the first of such seasons (or similar periods) and there is a reasonable assurance that such individual will perform such services in the later of such seasons (or similar periods).

(j) (i) Subsequent to December 31, 1977, benefits shall not be payable on the basis of services performed by an alien, unless such alien is an individual who was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for purposes of performing such services, or was permanently residing in the United

States under color of law at the time such services were performed (including an alien who was lawfully present in the United States as a result of the application of the provisions of Section 203(a)(7) or Section 212(d)(5) of the Immigration and Nationality Act).

(ii) Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits.

(iii) In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of his alien status shall be made, except upon a preponderance of the evidence.

(k) An individual shall be deemed prima facie unavailable for work, and therefore ineligible to receive benefits, during any period which, with respect to his employment status, is found by the department to be a holiday or vacation period.

(l) A temporary employee of a temporary help firm is considered to have left the employee's last work voluntarily without good cause connected with the work if the temporary employee does not contact the temporary help firm for reassignment on completion of an assignment. A temporary employee is not considered to have left work voluntarily without good cause connected with the work under this paragraph unless the temporary employee has been advised in writing:

(i) That the temporary employee is obligated to contact the temporary help firm on completion of assignments; and

(ii) That unemployment benefits may be denied if the temporary employee fails to do so.

SECTION 14. Section 71-5-13, Mississippi Code of 1972, is amended as follows:

71-5-13. (1) The* * * department is hereby authorized to enter into arrangements with the appropriate agencies of other states or the federal government, whereby individuals performing services in this and other states for a single employing unit under circumstances not specifically provided for in Section 71-5-11, subsection* * * I, or under similar provisions in the unemployment compensation laws of such other states, shall be deemed to be engaged in employment

performed entirely within this state or within one (1) of such other states and whereby potential rights to benefits accumulated under the unemployment compensation laws of one or more states or under such a law of the federal government, or both, may constitute the basis for the payment of benefits through a single appropriate agency under terms which the* * * department finds will be fair and reasonable as to all affected interests and will not result in any substantial loss to the fund.

(2) The* * * department is also authorized to enter into arrangements with the appropriate agencies of other states or of the federal government_:

(a) Whereby wages or services upon the basis of which an individual may become entitled to benefits under the unemployment compensation law of another state or of the federal government shall be deemed to be wages for employment by employers for the purposes of Sections 71-5-501 through 71-5-507 and Section 71-5-511(e), provided such other state agency or agency of the federal government has agreed to reimburse the fund for such portion of benefits paid under this chapter upon the basis of such wages or services as the* * * department finds will be fair and reasonable as to all affected interests; and

(b) Whereby the* * * department will reimburse other state or federal agencies charged with the administration of unemployment compensation laws with such reasonable portion of benefits paid under the law of any such other states or of the federal government, upon the basis of employment or wages for employment by employers, as the* * * department finds will be fair and reasonable as to all affected interests. Reimbursements so payable shall be deemed to be benefits for the purposes of Sections 71-5-451 through 71-5-459. The* * * department is hereby authorized to make to other state or federal agencies, and receive from such other state or federal agencies, reimbursements from or to the fund, in accordance with arrangements pursuant to this section.

(3) The* * * department is also authorized, in its discretion, to enter into or cooperate in arrangements with any federal agency whereby the facilities and services of the personnel of the* * * department may be utilized for the taking of claims and the payment of unemployment compensation

or allowances under any federal law enacted for the benefit of discharged members of the Armed Forces.

(4) The* * * department shall participate in any arrangements for the payment of compensation on the basis of combining an individual's wages and employment covered under this chapter with his wages and employment covered under the unemployment compensation laws of other states which are approved by the United States Secretary of Labor in consultation with the state unemployment compensation agencies as reasonably calculated to assure the prompt and full payment of compensation in such situations and which include provisions for :

(a) Applying the base period of a single state law to a claim involving the combining of an individual's wages and employment covered under two (2) or more state unemployment compensation laws* * * ; and

(b) Avoiding the duplicate use of wages and employment by reason of such combining.

SECTION 15. Section 71-5-357, Mississippi Code of 1972, is amended as follows:

71-5-357. Benefits paid to employees of nonprofit organizations shall be financed in accordance with the provisions of this section. For the purpose of this section, a nonprofit organization is an organization (or group of organizations) described in Section 501(c)(3) of the Internal Revenue Code of 1954 which is exempt from income tax under Section 501(a) of such code (26 USCS Section 501).

(a) Any nonprofit organization which, under Section 71-5-11, subsection* * * H(3), is or becomes subject to this chapter shall pay contributions under the provisions of Sections 71-5-351 through 71-5-355 unless it elects, in accordance with this paragraph, to pay to the department for the unemployment fund an amount equal to the amount of regular benefits and one-half (1/2) of the extended benefits paid, that is attributable to service in the employ of such nonprofit organization, to individuals for weeks of unemployment which begin during the effective period of such election.

(i) Any nonprofit organization which becomes subject to this chapter may elect to become liable for payments in lieu of contributions for a period of not less than twelve (12) months, beginning with the date on which such subjectivity begins, by filing a written notice of its election with the

department not later than thirty (30) days immediately following the date of the determination of such subjectivity.

(ii) Any nonprofit organization which makes an election in accordance with subparagraph (i) of this paragraph will continue to be liable for payments in lieu of contributions unless it files with the department a written termination notice not later than thirty (30) days prior to the beginning of the tax year for which such termination shall first be effective.

(iii) Any nonprofit organization which has been paying contributions under this chapter may change to a reimbursable basis by filing with the department, not later than thirty (30) days prior to the beginning of any tax year, a written notice of election to become liable for payments in lieu of contributions. Such election shall not be terminable by the organization for that and the next tax year.

(iv) The department may for good cause extend the period within which a notice of election or a notice of termination must be filed, and may permit an election to be retroactive.

(v) The department, in accordance with such regulations as it may prescribe, shall notify each nonprofit organization of any determination which it may make of its status as an employer, of the effective date of any election which it makes and of any termination of such election. Such determinations shall be subject to reconsideration, appeal and review in accordance with the provisions of Sections 71-5-351 through 71-5-355.

(b) Payments in lieu of contributions shall be made in accordance with the provisions of subparagraph (i) of this paragraph.

(i) At the end of each calendar quarter, or at the end of any other period as determined by the department, the department shall bill each nonprofit organization (or group of such organizations) which has elected to make payments in lieu of contributions, for an amount equal to the full amount of regular benefits plus one-half (1/2) of the amount of extended benefits paid during such quarter or other prescribed period that is attributable to service in the employ of such organization.

(ii) Payment of any bill rendered under subparagraph (i) of this paragraph shall be made not later than forty-five (45) days after such bill was delivered to the nonprofit organization, unless there has been an application for review and redetermination in accordance with subparagraph (v) of this paragraph.

1. All of the enforcement procedures for the collection of delinquent contributions contained in Sections 71-5-363 through 71-5-383 shall be applicable in all respects for the collection of delinquent payments due by nonprofit organizations who have elected to become liable for payments in lieu of contributions.

2. If any nonprofit organization is delinquent in making payments in lieu of contributions, the department may terminate such organization's election to make payments in lieu of contributions as of the beginning of the next tax year, and such termination shall be effective for the balance of such tax year.

(iii) Payments made by any nonprofit organization under the provisions of this paragraph shall not be deducted or deductible, in whole or in part, from the remuneration of individuals in the employ of the organization.

(iv) Payments due by employers who elect to reimburse the fund in lieu of contributions as provided in this paragraph may not be noncharged under any condition. The reimbursement must be on a dollar-for-dollar basis (One Dollar (\$1.00) reimbursement for each dollar paid in benefits) in every case, so that the trust fund shall be reimbursed in full, such reimbursement to include, but not be limited to, benefits or payments erroneously or incorrectly paid, or paid as a result of a determination of eligibility which is subsequently reversed, or paid as a result of claimant fraud. However, political subdivisions who are reimbursing employers may elect to pay to the fund an amount equal to five-tenths percent (.5%) through December 31, 2010, and shall pay twenty-five one-hundredths percent (.25%) thereafter of the taxable wages paid during the calendar year with respect to employment, and those employers who so elect shall be relieved of liability for reimbursement of benefits paid under the same conditions that benefits are not charged to the experience-rating record of a contributing employer as provided in Section 71-5-355(2)

(b) (ii) other than Clause 5 thereof. Benefits paid in such

circumstances for which reimbursing employers are relieved of liability for reimbursement shall not be considered attributable to service in the employment of such reimbursing employer.

(v) The amount due specified in any bill from the department shall be conclusive on the organization unless, not later than fifteen (15) days after the bill was delivered to it, the organization files an application for redetermination by the department, setting forth the grounds for such application or appeal. The department shall promptly review and reconsider the amount due specified in the bill and shall thereafter issue a redetermination in any case in which such application for redetermination has been filed. Any such redetermination shall be conclusive on the organization unless, not later than fifteen (15) days after the redetermination was delivered to it, the organization files an appeal to the Circuit Court of the First Judicial District of Hinds County, Mississippi, in accordance with the provisions of law with respect to review of civil causes by certiorari.

(vi) Past-due payments of amounts in lieu of contributions shall be subject to the same interest and penalties that, pursuant to Section 71-5-363, apply to past-due contributions.

(c) Each employer that is liable for payments in lieu of contributions shall pay to the department for the fund the amount of regular benefits plus the amount of one-half (1/2) of extended benefits paid are attributable to service in the employ of such employer. If benefits paid to an individual are based on wages paid by more than one (1) employer and one or more of such employers are liable for payments in lieu of contributions, the amount payable to the fund by each employer that is liable for such payments shall be determined in accordance with the provisions of subparagraph (i) or subparagraph (ii) of this paragraph.

(i) If benefits paid to an individual are based on wages paid by one or more employers that are liable for payment in lieu of contributions and on wages paid by one or more employers who are liable for contributions, the amount of benefits payable by each employer that is liable for payments in lieu of contributions shall be an amount which bears the same ratio to the total benefits paid to the individual as the total base period wages paid to the individual by such

employer bear to the total base period wages paid to the individual by all of his base period employers.

(ii) If benefits paid to an individual are based on wages paid by two (2) or more employers that are liable for payments in lieu of contributions, the amount of benefits payable by each such employer shall be an amount which bears the same ratio to the total benefits paid to the individual as the total base period wages paid to the individual by such employer bear to the total base period wages paid to the individual by all of his base period employers.

(d) In the discretion of the department, any nonprofit organization that elects to become liable for payments in lieu of contributions shall be required to execute and file with the department a surety bond approved by the department, or it may elect instead to deposit with the department money or securities. The amount of such bond or deposit shall be determined in accordance with the provisions of this paragraph.

(i) The amount of the bond or deposit required by paragraph (d) shall be equal to two and seven-tenths percent (2.7%) thereafter to December 31, 2010, and one and thirty-five one-hundredths percent (1.35%) thereafter, of the organization's taxable wages paid for employment as defined in Section 71-5-11, subsection* * * I(4), for the four (4) calendar quarters immediately preceding the effective date of the election, the renewal date in the case of a bond, or the biennial anniversary of the effective date of election in the case of a deposit of money or securities, whichever date shall be most recent and applicable. If the nonprofit organization did not pay wages in each of such four (4) calendar quarters, the amount of the bond or deposit shall be as determined by the department.

(ii) Any bond deposited under paragraph (d) shall be in force for a period of not less than two (2) tax years and shall be renewed with the approval of the department at such times as the department may prescribe, but not less frequently than at intervals of two (2) years as long as the organization continues to be liable for payments in lieu of contributions. The department shall require adjustments to be made in a previously filed bond as it deems appropriate. If the bond is to be increased, the adjusted bond shall be filed by the organization within thirty (30) days of the date notice of the required adjustment was delivered to it. Failure by

any organization covered by such bond to pay the full amount of payments in lieu of contributions when due, together with any applicable interest and penalties provided in paragraph (b) (v) of this section, shall render the surety liable on the bond to the extent of the bond, as though the surety was such organization.

(iii) Any deposit of money or securities in accordance with paragraph (d) shall be retained by the department in an escrow account until liability under the election is terminated, at which time it shall be returned to the organization, less any deductions as hereinafter provided. The department may deduct from the money deposited under paragraph (d) by a nonprofit organization, or sell the securities it has so deposited, to the extent necessary to satisfy any due and unpaid payments in lieu of contributions and any applicable interest and penalties provided for in paragraph (b) (v) of this section. The department shall require the organization, within thirty (30) days following any deduction from a money deposit or sale of deposited securities under the provisions hereof, to deposit sufficient additional money or securities to make whole the organization's deposit at the prior level. Any cash remaining from the sale of such securities shall be a part of the organization's escrow account. The department may, at any time, review the adequacy of the deposit made by any organization. If, as a result of such review, it determines that an adjustment is necessary, it shall require the organization to make additional deposit within thirty (30) days of notice of its determination or shall return to it such portion of the deposit as it no longer considers necessary, whichever action is appropriate. Disposition of income from securities held in escrow shall be governed by the applicable provisions of the state law.

(iv) If any nonprofit organization fails to file a bond or make a deposit, or to file a bond in an increased amount, or to increase or make whole the amount of a previously made deposit as provided under this subparagraph, the department may terminate such organization's election to make payments in lieu of contributions, and such termination shall continue for not less than the four (4) consecutive calendar-quarter periods beginning with the quarter in which such termination becomes effective; however, the department may extend for good cause the applicable filing, deposit or adjustment period by not more than thirty (30) days.

(v) Group account shall be established according to regulations prescribed by the department.

(e) Any employer which elects to make payments in lieu of contributions into the Unemployment Compensation Fund as provided in this paragraph shall not be liable to make such payments with respect to the benefits paid to any individual whose base period wages include wages for previously uncovered services as defined in Section 71-5-511(e) to the extent that the Unemployment Compensation Fund is reimbursed for such benefits pursuant to Section 121 of Public Law 94-566.

SECTION 16. Section 71-5-361, Mississippi Code of 1972, is amended as follows:

71-5-361. (1) Except as provided in subsection (3) of this section, any employing unit which is or becomes an employer subject to this chapter within any calendar year shall be deemed to be an employer during the whole of such calendar year.

(2) Except as otherwise provided in subsection (3) of this section:

(a) An employing unit (other than a state hospital, state institution of higher learning, state or state agency or other political subdivision or instrumentality) except as provided in subsections (b) and (c) of this subsection, shall cease to be an employer subject to this chapter only as of the first day of January of any calendar year, only if it files with the* * * department on or before the thirty-first day of May of such year a written application for termination of coverage, and the* * * department finds that during the preceding calendar year the employing unit did not pay wages of One Thousand Five Hundred Dollars (\$1,500.00) or more in any calendar quarter and that there were no twenty (20) days, each day being in a different week within the preceding calendar year, within which such employing unit employed one or more individuals in employment subject to this chapter, or four (4) or more in the case of nonprofit organizations, except if the* * * department finds that throughout a calendar year an employer has had no employment, it shall cease to be an employer subject to this chapter.

(b) An agricultural employer as defined under Section 71-5-11, subsection* * * H(4) (a) shall cease to be an agricultural employer subject to this chapter only as of the first day of

January of any calendar year, only if it files with the* * * department on or before the thirty-first day of May of such year a written application for termination of coverage, and the* * * department finds that during the preceding calendar year the employing unit did not pay for agricultural employment wages as defined in Section 71-5-11, subsection* * * I(6) of Twenty Thousand Dollars (\$20,000.00) in any calendar quarter of the preceding calendar year and that there were no twenty (20) days, each day being in a different week, within such calendar year, within which such employing unit employed ten (10) or more individuals in employment subject to this chapter, except if the* * * department finds that throughout a calendar year an employer has had no employment, it shall cease to be an employer subject to this chapter.

(c) A domestic employer, as defined in Section 71-5-11, subsection* * * H(4)(b), shall cease to be an employer subject to this chapter only as of the first day of January of any calendar year, only if it files with the* * * department on or before the thirty-first day of May of such year a written application for termination of coverage, and the* * * department finds that during the preceding calendar year the employing unit did not pay wages for domestic employment of One Thousand Dollars (\$1,000.00) or more in any calendar quarter of the preceding calendar year, except if the* * * department finds that throughout a calendar year an employer has had no employment, it shall cease to be an employer subject to this chapter.

(d) For the purpose of this subsection, the two (2) or more employing units mentioned in Section 71-5-11, subsection* * * H(5) or (6), shall be treated as a single employing unit. The* * * department may, of its own motion, cancel and terminate the effect of registrations for purposes of its accounting records in cases where it has found that employing units, duly registered as covered employers under the chapter, have died, ceased business or removed from the state without applying for termination of coverage, provided that the rights of claimants for benefits shall not be affected thereby.

(3) (a) An employing unit, not otherwise subject to this chapter, which files with the* * * department its written election to become an employer subject thereto for not less than two (2) calendar years shall, with the written approval of such election by the* * * department or the executive

director, become an employer subject hereto to the same extent as all other employers as of the date stated in such approval, and shall cease to be subject hereto as of January 1 of any calendar year subsequent to such two (2) calendar years only if it files with the* * * department, on or before the thirty-first day of May of such year, a written application for termination of coverage thereunder.

(b) Any employing unit, for which services that do not constitute employment as defined in this chapter are performed, may file with the* * * department a written election that all such services performed by individuals in its employ in one or more distinct establishments or places of business shall be deemed to constitute employment by an employer for all purposes of this chapter for not less than two (2) calendar years. Upon written approval of such election by the* * * department, such services shall be deemed to constitute employment subject to this chapter from and after the date stated in such approval. Such services shall cease to be deemed employment subject hereto as of January 1 of any calendar year subsequent to such two (2) calendar years only if, prior to the thirty-first day of May of such year, such employing unit has filed with the* * * department a written notice to that effect.

(4) (a) Prior to January 1, 1978, any political subdivision of this state may elect to cover under this chapter, for a period of not less than two (2) calendar years, services performed by employees in all of the hospitals and institutions of higher learning, as defined in Section 71-5-11, subsection* * * M or* * * N, operated by such political subdivision. Election is to be made by filing with the* * * department a notice of such election at least thirty (30) days prior to the effective date of such election. The election may exclude any services described in Section 71-5-11, subsection* * * I(5). Any political subdivision electing coverage under this subsection shall make payments in lieu of contributions with respect to benefits attributable to such employment as provided with respect to nonprofit organizations in subsections (b) and (c) of Section 71-5-357.

(b) Prior to January 1, 1978, the provisions in Section 71-5-511, subsection (g) with respect to benefit rights based on service for state and nonprofit institutions of higher learning shall be applicable also to service covered by an election under this section.

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(c) Prior to January 1, 1978, the amounts required to be paid in lieu of contributions by any political subdivision under this section shall be billed and payment made as provided in subsections (b) and (c) of Section 71-5-357.

(d) Prior to January 1, 1978, an election under this section, after having been in effect for not less than two (2) calendar years, may be terminated by filing with the* * * department written notice not later than thirty (30) days preceding the last day of the calendar year in which the termination is to be effective. Such termination becomes effective as of the first day of the next ensuing calendar year with respect to services performed on and after that date.

SECTION 17. Section 71-5-501, Mississippi Code of 1972, is amended as follows:

71-5-501. Wages earned for services defined in Section 71-5-11(* * * H) (15) (g), irrespective of when performed, shall not be included for purposes of determining eligibility under Section 71-5-511(e) or weekly benefit amount under Section 71-5-503 nor shall any benefits with respect to unemployment be payable under Section 71-5-505 on the basis of such wages. All benefits shall be paid through employment offices or such other agency or agencies as the* * * department may, by regulation, designate, in accordance with such regulations as the* * * department may prescribe. The* * * department may, by regulation, prescribe that benefits due and payable to claimants who die prior to the receipt or cashing of benefits checks may be paid to the legal representative, dependents, or next of kin, of the deceased as may be found by it to be equitably entitled thereto, and every such payment shall be deemed a valid payment to the same extent as if made to the legal representative of the decedent.

SECTION 18. This act shall take effect and be in force from and after its passage.

Mississippi Legislature

2013 Regular Session

House Bill 943

Description: County court; authorize boards of supervisors to establish.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: VRA

Chapter Number: 383

History of Actions:

- 1 01/21 (H) Referred To Judiciary A
- 2 01/29 (H) Title Suff Do Pass
- 3 01/31 (H) Amended
- 4 01/31 (H) Passed As Amended {Vote}
- 5 02/05 (H) Transmitted To Senate
- 6 02/15 (S) Referred To County Affairs; Judiciary,

Division A

- 7 02/27 (S) DR - TSDP: CA To JA
- 8 02/28 (S) DR - TSDPAA: JA To CA
- 9 03/05 (S) Title Suff Do Pass As Amended
- 10 03/07 (S) Amended
- 11 03/07 (S) Passed As Amended {Vote}
- 12 03/08 (S) Returned For Concurrence
- 13 03/11 (H) Concurred in Amend From Senate {Vote}
- 14 03/14 (H) Enrolled Bill Signed
- 15 03/14 (S) Enrolled Bill Signed
- 16 03/20 Approved by Governor

Amendments:

[H] Amendment No 1 *Adopted* Voice Vote

[S] Committee Amendment No 1 *Adopted* Voice Vote

Amendment Report for House Bill No. 943

Code Section: A 009-0009-0037

----- Additional Information -----

House Committee: Judiciary A

Senate Committee: County Affairs, Judiciary, Division A

Principal Author: Baker

Title: AN ACT TO AMEND SECTION 9-9-37, MISSISSIPPI CODE OF 1972, TO AUTHORIZE BOARDS OF SUPERVISORS TO ESTABLISH A COUNTY COURT; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Judiciary A

By: Representative Baker

House Bill 943

(As Sent to Governor)

AN ACT TO AMEND SECTION 9-9-37, MISSISSIPPI CODE OF 1972, TO AUTHORIZE BOARDS OF SUPERVISORS TO ESTABLISH A COUNTY COURT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 9-9-37, Mississippi Code of 1972, is amended as follows:

9-9-37. (1) From and after July 1, * * * 2013, or the date this act is effectuated under Section 5 of the Voting Rights Act of 1965, whichever is later, in any county not brought within the provisions of this chapter by the terms of Sections 9-9-1 and 9-9-3* * *, the board of supervisors* * * is authorized to determine whether* * * a county court shall be established in* * * the county* * *. If a majority* * * of the board are in favor of a county court, then the* * * board shall so certify to the Secretary of State and the Governor shall then issue a proclamation establishing the county court in* * * the county; and thereafter at the next succeeding meeting of the board of supervisors the board shall call an election for the election of a county judge, and* * * the election shall be conducted in the way and manner now provided by law for holding a special election.

(2) (a) Any county* * * not brought within the provisions of this chapter by the terms of Sections 9-9-1 and 9-9-3 that has a county court established under the provisions of subsection (1) of this section may thereafter come from under this chapter in the manner hereinafter provided. On petition of* * * twenty percent (20%) of the qualified electors of* * * the county, addressed to the board of supervisors of* * * the county, an election shall be called by* * * the board of supervisors and conducted in the way and manner now provided by law for a special election for the purpose of determining whether* * * the county court shall be abolished* * *; and, if the majority vote at* * * the election is in favor of abolishing the county court, then the election commission

shall so certify to the Secretary of State. The Governor shall then issue a proclamation declaring that the county court in said county be abolished on the first day of the month next succeeding* * * the election. .

(b)* * * If a county court is* * * abolished under the provisions of this* * * subsection (2),* * * the board of supervisors is not authorized to establish a county court within less than two (2) years thereafter.

(3) The salary of the county judge* * * shall be* * * as provided* * * in Section 9-9-11.

SECTION 2. The Attorney General of the State of Mississippi shall submit this act, immediately upon approval by the Governor, or upon approval by the Legislature subsequent to a veto, to the Attorney General of the United States or to the United States District Court for the District of Columbia in accordance with the provisions of the Voting Rights Act of 1965, as amended and extended.

SECTION 3. This act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended.

Mississippi Legislature

2013 Regular Session

House Bill 964

Description: State-issued credit cards; prohibit sellers from imposing a surcharge on buyers for using.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2013

Chapter Number: 394

History of Actions:

- | | | | |
|----|-------|-----|---|
| 1 | 01/21 | (H) | Referred To Appropriations |
| 2 | 02/05 | (H) | Title Suff Do Pass |
| 3 | 02/06 | (H) | Passed {Vote} |
| 4 | 02/07 | (H) | Transmitted To Senate |
| 5 | 02/15 | (S) | Referred To Accountability, Efficiency,
Transparency |
| 6 | 02/28 | (S) | Title Suff Do Pass |
| 7 | 03/08 | (S) | Passed {Vote} |
| 8 | 03/11 | (S) | Transmitted To House |
| 9 | 03/12 | (H) | Enrolled Bill Signed |
| 10 | 03/12 | (S) | Enrolled Bill Signed |
| 11 | 03/20 | | Approved by Governor |

Code Section: A 031-0007-0009

----- **Additional Information** -----

House Committee: Appropriations

Senate Committee: Accountability, Efficiency, Transparency

Principal Author: Frierson

Title: AN ACT TO AMEND SECTION 31-7-9, MISSISSIPPI CODE OF 1972, TO PROHIBIT SELLERS IN SALES OF GOODS OR SERVICES FROM IMPOSING A SURCHARGE ON A BUYER WHO USES A STATE-ISSUED CREDIT CARD, PROCUREMENT CARD, TRAVEL CARD, OR FUEL CARD; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Appropriations

By: Representative Frierson

House Bill 964

(As Sent to Governor)

AN ACT TO AMEND SECTION 31-7-9, MISSISSIPPI CODE OF 1972, TO PROHIBIT SELLERS IN SALES OF GOODS OR SERVICES FROM IMPOSING A SURCHARGE ON A BUYER WHO USES A STATE-ISSUED CREDIT CARD, PROCUREMENT CARD, TRAVEL CARD, OR FUEL CARD; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 31-7-9, Mississippi Code of 1972, is amended as follows:

31-7-9. (1) (a) The Office of Purchasing, Travel and Fleet Management shall adopt purchasing regulations governing the purchase by any agency of any commodity or commodities and establishing standards and specifications for a commodity or commodities and the maximum fair prices of a commodity or commodities, subject to the approval of the Public Procurement Review Board. It shall have the power to amend, add to or eliminate purchasing regulations. The adoption of, amendment, addition to or elimination of purchasing regulations shall be based upon a determination by the Office of Purchasing, Travel and Fleet Management with the approval of the Public Procurement Review Board, that such action is reasonable and practicable and advantageous to promote efficiency and economy in the purchase of commodities by the agencies of the state. Upon the adoption of any purchasing regulation, or an amendment, addition or elimination therein, copies of same shall be furnished to the State Auditor and to all agencies affected thereby. Thereafter, and except as otherwise may be provided in subsection (2) of this section, no agency of the state shall purchase any commodities covered by existing purchasing regulations unless such commodities be in conformity with the standards and specifications set forth in the purchasing regulations and unless the price thereof does not exceed the maximum fair price established by such purchasing regulations. The* * * Office of Purchasing, Travel and Fleet Management shall furnish to any county

or municipality or other local public agency of the state requesting same, copies of purchasing regulations adopted by the Office of Purchasing, Travel and Fleet Management and any amendments, changes or eliminations of same that may be made from time to time.

(b) The Office of Purchasing, Travel and Fleet Management may adopt purchasing regulations governing the use of credit cards, procurement cards and purchasing club membership cards to be used by state agencies, governing authorities of counties and municipalities, school districts and the Chickasawhay Natural Gas District. Use of the cards shall be in strict compliance with the regulations promulgated by the office. Any amounts due on the cards shall incur interest charges as set forth in Section 31-7-305 and shall not be considered debt.

(c) Pursuant to the provision of Section 37-61-33(3), the Office of Purchasing, Travel and Fleet Management of the Department of Finance and Administration is authorized to issue procurement cards to all public school district classroom teachers and other necessary direct support personnel at the beginning of the school year for the purchase of instructional supplies using Educational Enhancement Funds. The cards will be issued in equal amounts per teacher determined by the total number of qualifying personnel and the then current state appropriation for classroom instructional supplies under the Education Enhancement Fund. All purchases shall be in accordance with state law and teachers are responsible for verification of capital asset requirements when pooling monies to purchase equipment. The cards will expire on a pre-determined date at the end of each school year. All unexpended amounts will be carried forward, to be combined with the following year's instructional supply fund allocation, and reallocated for the following year. The Department of Finance and Administration is authorized to loan any start-up funds at the beginning of the school year to fund this procurement system for instructional supplies with loan repayment being made from sales tax receipts earmarked for the Education Enhancement Fund.

(d) In a sale of goods or services, the seller shall not impose a surcharge on a buyer who uses a state-issued credit card, procurement card, travel card, or fuel card. The Department of Finance and Administration shall have exclusive jurisdiction to enforce and adopt rules relating to this

paragraph. Any rules adopted under this paragraph shall be consistent with federal laws and regulations governing credit card transactions described by this paragraph. This paragraph does not create a cause of action against an individual for a violation of this paragraph.

(2) The Office of Purchasing, Travel and Fleet Management shall adopt, subject to the approval of the Public Procurement Review Board, purchasing regulations governing the purchase of unmarked vehicles to be used by the Bureau of Narcotics and Department of Public Safety in official investigations pursuant to Section 25-1-87. Such regulations shall ensure that purchases of such vehicles shall be at a fair price and shall take into consideration the peculiar needs of the Bureau of Narcotics and Department of Public Safety in undercover operations.

(3) The Office of Purchasing, Travel and Fleet Management shall adopt, subject to the approval of the Public Procurement Review Board, regulations governing the certification process for certified purchasing offices. Such regulations shall require entities desiring to be classified as certified purchasing offices to submit applications and applicable documents on an annual basis, at which time the Office of Purchasing, Travel and Fleet Management may provide the governing entity with a certification valid for one (1) year from the date of issuance.

SECTION 2. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

House Bill 974

Description: Gaming; clarify that operation of Internet sweepstakes cafe is illegal gambling activity under state law.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2013

Chapter Number: 410

History of Actions:

- | | | | |
|----|-------|-----|---------------------------------------|
| 1 | 01/21 | (H) | Referred To Gaming |
| 2 | 01/30 | (H) | Title Suff Do Pass |
| 3 | 02/12 | (H) | Amended |
| 4 | 02/12 | (H) | Passed As Amended {Vote} |
| 5 | 02/14 | (H) | Transmitted To Senate |
| 6 | 02/15 | (S) | Referred To Finance |
| 7 | 02/26 | (S) | Title Suff Do Pass As Amended |
| 8 | 02/27 | (S) | Amended |
| 9 | 02/27 | (S) | Passed As Amended {Vote} |
| 10 | 02/28 | (S) | Returned For Concurrence |
| 11 | 03/06 | (H) | Concurred in Amend From Senate {Vote} |
| 12 | 03/13 | (S) | Enrolled Bill Signed |
| 13 | 03/13 | (H) | Enrolled Bill Signed |
| 14 | 03/20 | | Approved by Governor |

Amendments:

[H] Amendment No 1 *Adopted* Voice Vote

[S] Committee Amendment No 1 *Adopted* Voice Vote

[S] Amendment No 1 to Committee Amendment No 1 *Adopted* Voice Vote

Amendment Report for House Bill No. 974

Code Section: A 097-0033-0001, A 097-0033-0007, A 097-0033-0009, A 075-0076-0005

----- **Additional Information** -----

House Committee: Gaming

Senate Committee: Finance

Principal Author: Bennett

Title: AN ACT TO CLARIFY THAT THE OPERATION OF “INTERNET SWEEPSTAKES CAFES” IS AN ILLEGAL GAMBLING ACTIVITY UNDER STATE LAW; TO MAKE IT UNLAWFUL FOR ANY PERSON OR ENTITY TO OPERATE AN ELECTRONIC VIDEO MONITOR THAT IS OFFERED TO A PERSON TO PLAY IN A SIMULATED GAMBLING PROGRAM IN RETURN FOR DIRECT OR INDIRECT CONSIDERATION THAT MAY MAKE THE PLAYER ELIGIBLE TO WIN CERTAIN PRIZES; TO SET FORTH A PENALTY FOR VIOLATIONS OF THE ACT; TO PROVIDE EXCEPTIONS TO THE ACT; TO AMEND SECTIONS 97-33-1, 97-33-7, 97-33-9 AND 75-76-5, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Gaming

By: Representative Bennett

House Bill 974

(As Sent to Governor)

AN ACT TO CLARIFY THAT THE OPERATION OF "INTERNET SWEEPSTAKES CAFES" IS AN ILLEGAL GAMBLING ACTIVITY UNDER STATE LAW; TO MAKE IT UNLAWFUL FOR ANY PERSON OR ENTITY TO OPERATE AN ELECTRONIC VIDEO MONITOR THAT IS OFFERED TO A PERSON TO PLAY IN A SIMULATED GAMBLING PROGRAM IN RETURN FOR DIRECT OR INDIRECT CONSIDERATION THAT MAY MAKE THE PLAYER ELIGIBLE TO WIN CERTAIN PRIZES; TO SET FORTH A PENALTY FOR VIOLATIONS OF THE ACT; TO PROVIDE EXCEPTIONS TO THE ACT; TO AMEND SECTIONS 97-33-1, 97-33-7, 97-33-9 AND 75-76-5, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. (1) The provisions of this section are intended to clarify that the operation of "Internet sweepstakes cafes" is an illegal gambling activity under state law.

(2) It shall be unlawful for any person or entity to possess, own, control, display, operate or have a financial interest in an electronic video monitor that:

(a) Is offered or made available to a person to play or participate in a simulated gambling program in return for direct or indirect consideration, including consideration associated with a product, service or activity other than the simulated gambling program; and

(b) The person who plays or participates in the simulated gambling program may become eligible to win, redeem or otherwise obtain a cash or cash-equivalent prize, whether or not the eligibility for or value of the prize is determined by or has any relationship to the outcome or play of the program.

(3) As used in this section, the following words and phrases shall have the meanings ascribed in this subsection, unless the context clearly indicates otherwise:

(a) "Simulated gambling program" means any method intended to be used by a person playing, participating or interacting with an electronic video monitor that is offered by another person or entity; that directly or indirectly implements the predetermination of a cash or cash-equivalent prize, or otherwise connects the player with the cash or cash-equivalent prize; and that is not legal under the Mississippi Gaming Control Act.

(b) "Consideration associated with a product, service or activity other than the simulated gambling program" means money or other value collected for a product, service or activity that is offered in any direct or indirect relationship to playing or participating in the simulated gambling program. The term includes consideration paid for Internet access or computer time, or a sweepstakes entry.

(c) "Electronic video monitor" means any unit, mechanism, computer or other terminal, or device that is capable of displaying moving or still images.

(4) Any person or entity violating the provisions of this section, upon conviction, shall be guilty of a misdemeanor and fined not more than One Thousand Dollars (\$1,000.00) or imprisoned for not less than one (1) year, or both.

(5) The provisions of this section shall not apply to:

(a) Any lawful activity that is conducted for the primary purpose of entertaining children under the age of eighteen (18) years, during which money is paid for a token or chip that is used to play an electronic or other game, with the winner of the game earning tickets that can be exchanged for prizes;

(b) Any lawful marketing promotion, contest, prize or sweepstakes that is designed to attract consumer attention to a specific product or service which is offered for sale by the manufacturer, distributor, vendor or retailer of the product or service; or

(c) Any promotional activity as defined in Section 75-76-5 that is conducted by a gaming licensee.

SECTION 2. Section 97-33-1, Mississippi Code of 1972, is amended as follows:

97-33-1. Except as otherwise provided in Section 1 of this act, if any person shall encourage, promote or play at

any game, play or amusement, other than a fight or fighting match between dogs, for money or other valuable thing, or shall wager or bet, promote or encourage the wagering or betting of any money or other valuable things, upon any game, play, amusement, cockfight, Indian ball play or duel, other than a fight or fighting match between dogs, or upon the result of any election, event or contingency whatever, upon conviction thereof, he shall be fined in a sum not more than Five Hundred Dollars (\$500.00); and, unless such fine and costs be immediately paid, shall be imprisoned for any period not more than ninety (90) days. However, this section shall not apply to betting, gaming or wagering:

(a) On a cruise vessel as defined in Section 27-109-1 whenever such vessel is in the waters within the State of Mississippi, which lie adjacent to the State of Mississippi south of the three (3) most southern counties in the State of Mississippi, including the Mississippi Sound, St. Louis Bay, Biloxi Bay and Pascagoula Bay, and in which the registered voters of the county in which the port is located have not voted to prohibit such betting, gaming or wagering on cruise vessels as provided in Section 19-3-79;

(b) In a structure located, in whole or in part, on shore in any of the three (3) most southern counties in the State of Mississippi in which the registered voters of the county have voted to allow such betting, gaming or wagering on cruise vessels as provided in Section 19-3-79, if:

(i) The structure is owned, leased or controlled by a person possessing a gaming license, as defined in Section 75-76-5, to conduct legal gaming on a cruise vessel under paragraph (a) of this section;

(ii) The part of the structure in which licensed gaming activities are conducted is located entirely in an area which is located no more than eight hundred (800) feet from the mean high-water line (as defined in Section 29-15-1) of the waters within the State of Mississippi, which lie adjacent to the State of Mississippi south of the three (3) most southern counties in the State of Mississippi, including the Mississippi Sound, St. Louis Bay, Biloxi Bay and Pascagoula Bay, or, with regard to Harrison County only, no farther north than the southern boundary of the right-of-way for U.S. Highway 90, whichever is greater; and

(iii) In the case of a structure that is located in whole or part on shore, the part of the structure in which licensed gaming activities are conducted shall lie adjacent to state waters south of the three (3) most southern counties in the State of Mississippi, including the Mississippi Sound, St. Louis Bay, Biloxi Bay and Pascagoula Bay. When the site upon which the structure is located consists of a parcel of real property, easements and rights-of-way for public streets and highways shall not be construed to interrupt the contiguous nature of the parcel, nor shall the footage contained within the easements and rights-of-way be counted in the calculation of the distances specified in subparagraph (ii)* * *;

(c) On a vessel as defined in Section 27-109-1 whenever such vessel is on the Mississippi River or navigable waters within any county bordering on the Mississippi River, and in which the registered voters of the county in which the port is located have not voted to prohibit such betting, gaming or wagering on vessels as provided in Section 19-3-79; or

(d) That is legal under the laws of the State of Mississippi.

SECTION 3. Section 97-33-7, Mississippi Code of 1972, is amended as follows:

97-33-7. (1) Except as otherwise provided in Section 1 of this act, it shall be unlawful for any person or persons, firm, copartnership or corporation to have in possession, own, control, display, or operate any cane rack, knife rack, artful dodger, punch board, roll down, merchandise wheel, slot machine, pinball machine, or similar device or devices. Provided, however, that this section shall not be so construed as to make unlawful the ownership, possession, control, display or operation of any antique coin machine as defined in Section 27-27-12, or any music machine or bona fide automatic vending machine where the purchaser receives exactly the same quantity of merchandise on each operation of said machine. Any slot machine other than an antique coin machine as defined in Section 27-27-12 which delivers, or is so constructed as that by operation thereof it will deliver to the operator thereof anything of value in varying quantities, in addition to the merchandise received, and any slot machine other than an antique coin machine as defined in Section 27-27-12 that is constructed in such manner as that slugs, tokens, coins

or similar devices are, or may be, used and delivered to the operator thereof in addition to merchandise of any sort contained in such machine, is hereby declared to be a gambling device, and shall be deemed unlawful under the provisions of this section. Provided, however, that pinball machines which do not return to the operator or player thereof anything but free additional games or plays shall not be deemed to be gambling devices, and neither this section nor any other law shall be construed to prohibit same.

(2) No property right shall exist in any person, natural or artificial, or be vested in such person, in any or all of the devices described herein that are not exempted from the provisions of this section; and all such devices are hereby declared to be at all times subject to confiscation and destruction, and their possession shall be unlawful, except when in the possession of officers carrying out the provisions of this section. It shall be the duty of all law enforcing officers to seize and immediately destroy all such machines and devices.

(3) A first violation of the provisions of this section shall be deemed a misdemeanor, and the party offending shall, upon conviction, be fined in any sum not exceeding Five Hundred Dollars (\$500.00), or imprisoned not exceeding three (3) months, or both, in the discretion of the court. In the event of a second conviction for a violation of any of the provisions of this section, the party offending shall be subject to a sentence of not less than six (6) months in the county jail, nor more than two (2) years in the State Penitentiary, in the discretion of the trial court.

(4) Notwithstanding any provision of this section to the contrary, it shall not be unlawful to operate any equipment or device described in subsection (1) of this section or any gaming, gambling or similar device or devices by whatever name called while:

(a) On a cruise vessel as defined in Section 27-109-1 whenever such vessel is in the waters within the State of Mississippi, which lie adjacent to the State of Mississippi south of the three (3) most southern counties in the State of Mississippi, including the Mississippi Sound, St. Louis Bay, Biloxi Bay and Pascagoula Bay, and in which the registered voters of the county in which the port is located have not

voted to prohibit such betting, gaming or wagering on cruise vessels as provided in Section 19-3-79;

(b) In a structure located, in whole or in part, on shore in any of the three (3) most southern counties in the State of Mississippi in which the registered voters of the county have voted to allow such betting, gaming or wagering on cruise vessels as provided in Section 19-3-79, if:

(i) The structure is owned, leased or controlled by a person possessing a gaming license, as defined in Section 75-76-5, to conduct legal gaming on a cruise vessel under paragraph (a) of this subsection;

(ii) The part of the structure in which licensed gaming activities are conducted is located entirely in an area which is located no more than eight hundred (800) feet from the mean high-water line (as defined in Section 29-15-1) of the waters within the State of Mississippi, which lie adjacent to the State of Mississippi south of the three (3) most southern counties in the State of Mississippi, including the Mississippi Sound, St. Louis Bay, Biloxi Bay and Pascagoula Bay, or, with regard to Harrison County only, no farther north than the southern boundary of the right-of-way for U.S. Highway 90, whichever is greater; and

(iii) In the case of a structure that is located in whole or part on shore, the part of the structure in which licensed gaming activities are conducted shall lie adjacent to state waters south of the three (3) most southern counties in the State of Mississippi, including the Mississippi Sound, St. Louis Bay, Biloxi Bay and Pascagoula Bay. When the site upon which the structure is located consists of a parcel of real property, easements and rights-of-way for public streets and highways shall not be construed to interrupt the contiguous nature of the parcel, nor shall the footage contained within the easements and rights-of-way be counted in the calculation of the distances specified in subparagraph (ii)* * *;

(c) On a vessel as defined in Section 27-109-1 whenever such vessel is on the Mississippi River or navigable waters within any county bordering on the Mississippi River, and in which the registered voters of the county in which the port is located have not voted to prohibit such betting, gaming or wagering on vessels as provided in Section 19-3-79; or

(d) That is legal under the laws of the State of Mississippi.

(5) Notwithstanding any provision of this section to the contrary, it shall not be unlawful (a) to own, possess, repair or control any gambling device, machine or equipment in a licensed gaming establishment or on the business premises appurtenant to any such licensed gaming establishment during any period of time in which such licensed gaming establishment is being constructed, repaired, maintained or operated in this state; (b) to install any gambling device, machine or equipment in any licensed gaming establishment; (c) to possess or control any gambling device, machine or equipment during the process of procuring or transporting such device, machine or equipment for installation on any such licensed gaming establishment; or (d) to store in a warehouse or other storage facility any gambling device, machine, equipment, or part thereof, regardless of whether the county or municipality in which the warehouse or storage facility is located has approved gaming aboard cruise vessels or vessels, provided that such device, machine or equipment is operated only in a county or municipality that has approved gaming aboard cruise vessels or vessels. Any gambling device, machine or equipment that is owned, possessed, controlled, installed, procured, repaired, transported or stored in accordance with this subsection shall not be subject to confiscation, seizure or destruction, and any person, firm, partnership or corporation which owns, possesses, controls, installs, procures, repairs, transports or stores any gambling device, machine or equipment in accordance with this subsection shall not be subject to any prosecution or penalty under this section. Any person constructing or repairing such cruise vessels or vessels within a municipality shall comply with all municipal ordinances protecting the general health or safety of the residents of the municipality.

SECTION 4. Section 97-33-9, Mississippi Code of 1972, is amended as follows:

97-33-9. Except as otherwise provided in Section 1 of this act, if any person shall be guilty of keeping or exhibiting any game or gaming table commonly called A.B.C. or E.O. roulette or rowley-powley, or rouge et noir, roredo, keno, monte, or any faro-bank, or other game, gaming table, or bank of the same or like kind or any other kind or description under any

other name whatever, or shall be in any manner either directly or indirectly interested or concerned in any gaming tables, banks, or games, either by furnishing money or articles for the purpose of carrying on the same, being interested in the loss or gain of said table, bank or games, or employed in any manner in conducting, carrying on, or exhibiting said gaming tables, games, or banks, every person so offending and being thereof convicted, shall be fined not less than Twenty-five Dollars (\$25.00) nor more than Two Thousand Dollars (\$2,000.00), or be imprisoned in the county jail not longer than two (2) months, or by both such fine and imprisonment, in the discretion of the court. Nothing in this section shall apply to any person who owns, possesses, controls, installs, procures, repairs or transports any gambling device, machine or equipment in accordance with subsection (4) of Section 97-33-7 or Section 75-76-34.

SECTION 5. Section 75-76-5, Mississippi Code of 1972, is amended as follows:

75-76-5. As used in this chapter, unless the context requires otherwise:

(a) "Applicant" means any person who has applied for or is about to apply for a state gaming license, registration or finding of suitability under the provisions of this chapter or approval of any act or transaction for which approval is required or permitted under the provisions of this chapter.

(b) "Application" means a request for the issuance of a state gaming license, registration or finding of suitability under the provisions of this chapter or for approval of any act or transaction for which approval is required or permitted under the provisions of this chapter but does not include any supplemental forms or information that may be required with the application.

(c) "Associated equipment" means any equipment or mechanical, electromechanical or electronic contrivance, component or machine used remotely or directly in connection with gaming or with any game, race book or sports pool that would not otherwise be classified as a gaming device, including dice, playing cards, links which connect to progressive slot machines, equipment which affects the proper reporting of gross revenue, computerized systems of betting at a race book or sports pool, computerized systems for monitoring slot machines, and devices for weighing or counting money.

(d) "Chairman" means the Chairman of the Mississippi Gaming Commission except when used in the term "Chairman of the State Tax Commission." "Chairman of the State Tax Commission" or "commissioner" means the Commissioner of Revenue of the Department of Revenue.

(e) "Commission" or "Mississippi Gaming Commission" means the Mississippi Gaming Commission.

(f) "Commission member" means a member of the Mississippi Gaming Commission.

(g) "Credit instrument" means a writing which evidences a gaming debt owed to a person who holds a license at the time the debt is created, and includes any writing taken in consolidation, redemption or payment of a prior credit instrument.

(h) "Enforcement division" means a particular division supervised by the executive director that provides enforcement functions.

(i) "Establishment" means any premises wherein or whereon any gaming is done.

(j) "Executive director" means the Executive Director of the Mississippi Gaming Commission.

(k) Except as otherwise provided by law, "game," or "gambling game" means any banking or percentage game played with cards, with dice or with any mechanical, electromechanical or electronic device or machine for money, property, checks, credit or any representative of value, including, without limiting, the generality of the foregoing, faro, monte, roulette, keno, fan-tan, twenty-one, blackjack, seven-and-a-half, big injun, klondike, craps, poker, chuck-a-luck (dai shu), wheel of fortune, chemin de fer, baccarat, pai gow, beat the banker, panguingui, slot machine, or any other game or device approved by the commission. However, "game" or "gambling game" shall not include bingo games or raffles which are held pursuant to the provisions of Section 97-33-51, or the illegal gambling activities described in Section 1 of this act.

The commission shall not be required to recognize any game hereunder with respect to which the commission determines it does not have sufficient experience or expertise.

(l) "Gaming" or "gambling" means to deal, operate, carry on, conduct, maintain or expose for play any game as defined in this chapter.

(m) "Gaming device" means any mechanical, electromechanical or electronic contrivance, component or machine used in connection with gaming or any game which affects the result of a wager by determining win or loss. The term includes a system for processing information which can alter the normal criteria of random selection, which affects the operation of any game, or which determines the outcome of a game. The term does not include a system or device which affects a game solely by stopping its operation so that the outcome remains undetermined, and does not include any antique coin machine as defined in Section 27-27-12.

(n) "Gaming employee" means any person connected directly with the operation of a gaming establishment licensed to conduct any game, including:

- (i) Boxmen;
- (ii) Cashiers;
- (iii) Change personnel;
- (iv) Counting room personnel;
- (v) Dealers;
- (vi) Floormen;
- (vii) Hosts or other persons empowered to extend credit or complimentary services;
- (viii) Keno runners;
- (ix) Keno writers;
- (x) Machine mechanics;
- (xi) Security personnel;
- (xii) Shift or pit bosses;
- (xiii) Shills;
- (xiv) Supervisors or managers; and
- (xv) Ticket writers.

The term "gaming employee" also includes employees of manufacturers or distributors of gaming equipment within this state whose duties are directly involved with the manufacture, repair or distribution of gaming equipment.

"Gaming employee" does not include bartenders, cocktail waitresses or other persons engaged in preparing or serving food or beverages unless acting in some other capacity.

(o) "Gaming license" means any license issued by the state which authorizes the person named therein to engage in gaming.

(p) "Gross revenue" means the total of all of the following, less the total of all cash paid out as losses to patrons and those amounts paid to purchase annuities to fund losses paid to patrons over several years by independent financial institutions:

(i) Cash received as winnings;

(ii) Cash received in payment for credit extended by a licensee to a patron for purposes of gaming; and

(iii) Compensation received for conducting any game in which the licensee is not party to a wager.

For the purposes of this definition, cash or the value of noncash prizes awarded to patrons in a contest or tournament are not losses.

The term does not include:

(i) Counterfeit money or tokens;

(ii) Coins of other countries which are received in gaming devices;

(iii) Cash taken in fraudulent acts perpetrated against a licensee for which the licensee is not reimbursed; or

(iv) Cash received as entry fees for contests or tournaments in which the patrons compete for prizes.

(q) "Hearing examiner" means a member of the Mississippi Gaming Commission or other person authorized by the commission to conduct hearings.

(r) "Investigation division" means a particular division supervised by the executive director that provides investigative functions.

(s) "License" means a gaming license or a manufacturer's, seller's or distributor's license.

(t) "Licensee" means any person to whom a valid license has been issued.

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(u) "License fees" means monies required by law to be paid to obtain or continue a gaming license or a manufacturer's, seller's or distributor's license.

(v) "Licensed gaming establishment" means any premises licensed pursuant to the provisions of this chapter wherein or whereon gaming is done.

(w) "Manufacturer's," "seller's" or "distributor's" license means a license issued pursuant to Section 75-76-79.

(x) "Navigable waters" shall have the meaning ascribed to such term under Section 27-109-1.

(y) "Operation" means the conduct of gaming.

(z) "Party" means the Mississippi Gaming Commission and any licensee or other person appearing of record in any proceeding before the commission; or the Mississippi Gaming Commission and any licensee or other person appearing of record in any proceeding for judicial review of any action, decision or order of the commission.

(aa) "Person" includes any association, corporation, firm, partnership, trust or other form of business association as well as a natural person.

(bb) "Premises" means land, together with all buildings, improvements and personal property located thereon, and includes all parts of any vessel or cruise vessel.

(cc) "Race book" means the business of accepting wagers upon the outcome of any event held at a track which uses the pari-mutuel system of wagering.

(dd) "Regulation" means a rule, standard, directive or statement of general applicability which effectuates law or policy or which describes the procedure or requirements for practicing before the commission. The term includes a proposed regulation and the amendment or repeal of a prior regulation but does not include:

(i) A statement concerning only the internal management of the commission and not affecting the rights or procedures available to any licensee or other person;

(ii) A declaratory ruling;

(iii) An interagency memorandum;

(iv) The commission's decision in a contested case or relating to an application for a license; or

(v) Any notice concerning the fees to be charged which are necessary for the administration of this chapter.

(ee) "Respondent" means any licensee or other person against whom a complaint has been filed with the commission.

(ff) "Slot machine" means any mechanical, electrical or other device, contrivance or machine which, upon insertion of a coin, token or similar object, or upon payment of any consideration, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator or application of the element of chance, or both, may deliver or entitle the person playing or operating the machine to receive cash, premiums, merchandise, tokens or anything of value, whether the payoff is made automatically from the machine or in any other manner. The term does not include any antique coin machine as defined in Section 27-27-12.

(gg) "Sports pool" means the business of accepting wagers on sporting events, except for athletic events, by any system or method of wagering other than the system known as the "pari-mutuel method of wagering."

(hh) "State Tax Commission" or "department" means the Department of Revenue of the State of Mississippi.

(ii) "Temporary work permit" means a work permit which is valid only for a period not to exceed ninety (90) days from its date of issue and which is not renewable.

(jj) "Vessel" or "cruise vessel" shall have the meanings ascribed to such terms under Section 27-109-1.

(kk) "Work permit" means any card, certificate or permit issued by the commission, whether denominated as a work permit, registration card or otherwise, authorizing the employment of the holder as a gaming employee. A document issued by any governmental authority for any employment other than gaming is not a valid work permit for the purposes of this chapter.

(ll) "School or training institution" means any school or training institution which is licensed by the commission to teach or train gaming employees pursuant to Section 75-76-34.

(mm) "Cheat" means to alter the selection of criteria that determine:

(i) The rules of a game; or

(ii) The amount or frequency of payment in a game.

(nn) "Promotional activity" means an activity or event conducted or held for the purpose of promoting or marketing the individual licensed gaming establishment that is engaging in the promotional activity. The term includes, but is not limited to, a game of any kind other than as defined in paragraph (k) of this section, a tournament, a contest, a drawing, or a promotion of any kind.

SECTION 6. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

House Bill 975

Description: Districts under conservator; provide for special election in certain to fill vacancies on school board.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: VRA

Chapter Number: 331

History of Actions:

- | | | | |
|----|-------|-----|-----------------------|
| 1 | 01/21 | (H) | Referred To Education |
| 2 | 01/28 | (H) | Title Suff Do Pass |
| 3 | 02/06 | (H) | Passed {Vote} |
| 4 | 02/07 | (H) | Transmitted To Senate |
| 5 | 02/13 | (S) | Referred To Education |
| 6 | 02/26 | (S) | Title Suff Do Pass |
| 7 | 02/28 | (S) | Passed {Vote} |
| 8 | 03/01 | (S) | Transmitted To House |
| 9 | 03/04 | (H) | Enrolled Bill Signed |
| 10 | 03/04 | (S) | Enrolled Bill Signed |
| 11 | 03/11 | | Approved by Governor |

Code Section: A 037-0017-0013, A 037-0005-0019, A 037-0007-0207

----- Additional Information -----

House Committee: Education

Senate Committee: Education

Principal Author: Moore

Title: AN ACT TO AMEND SECTIONS 37-17-13, 37-5-19 AND 37-7-207, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR A SPECIAL SCHOOL BOARD ELECTION TO FILL VACANCIES IN SCHOOL DISTRICTS UNDER CONSERVATORSHIP WHERE THERE ARE NO REMAINING SCHOOL BOARD MEMBERS AT THE TIME OF RECONSTITUTION OR REORGANIZATION OF THE DISTRICT; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Education

By: Representative Moore

House Bill 975

(As Sent to Governor)

AN ACT TO AMEND SECTIONS 37-17-13, 37-5-19 AND 37-7-207, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR A SPECIAL SCHOOL BOARD ELECTION TO FILL VACANCIES IN SCHOOL DISTRICTS UNDER CONSERVATORSHIP WHERE THERE ARE NO REMAINING SCHOOL BOARD MEMBERS AT THE TIME OF RECONSTITUTION OR REORGANIZATION OF THE DISTRICT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 37-17-13, Mississippi Code of 1972, is amended as follows:

[Until the date Laws of 2012, Chapter 525, is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended, this section shall read as follows:]

37-17-13. (1) Whenever the Governor declares a state of emergency in a school district in response to a certification by the State Board of Education and the Commission on School Accreditation made under Section 37-17-6(11)(b), the State Board of Education, in addition to any actions taken under Section 37-17-6, may abolish the school district and assume control and administration of the schools formerly constituting the district, and appoint a conservator to carry out this purpose under the direction of the State Board of Education. In such case, the State Board of Education shall have all powers which were held by the previously existing school board, and the previously existing superintendent of schools or county superintendent of education, including, but not limited to, those enumerated in Section 37-7-301, and the authority to request tax levies from the appropriate governing authorities for the support of the schools and to receive and expend the tax funds as provided by Section 37-57-1 et seq., and Section 37-57-105 et seq.

(2) When a school district is abolished under this section, loans from the School District Emergency Assistance Fund may be made by the State Board of Education for the use and

benefit of the schools formerly constituting the district in accordance with the procedures set forth in Section 37-17-6(14) for such loans to the district. The abolition of a school district under this section shall not impair or release the property of that school district from liability for the payment of the loan indebtedness, and it shall be the duty of the appropriate governing authorities to levy taxes on the property of the district so abolished from year to year according to the terms of the indebtedness until same shall be fully paid.

(3) After a school district is abolished under this section, at such time as the State Board of Education determines that the impairments have been substantially corrected, the State Board of Education shall reconstitute, reorganize or change or alter the boundaries of the previously existing district; however, no partition or assignment of territory formerly included in the abolished district to one or more other school districts may be made by the State Board of Education without the consent of the school board of the school district to which such territory is to be transferred, such consent to be spread upon its minutes. At that time, the State Board of Education, in appropriate cases, shall notify the appropriate governing authority or authorities of its action and request them to provide for the election or appointment of school board members and a superintendent or superintendents to govern the district or districts affected, in the manner provided by law. In the event the statute provides that vacancies in the membership of the school board be filled by appointment by the remaining members of the school board and no members of an all-elected school board remain in office, the Governor shall call a special election to fill the vacancies. In those situations, the Governor shall set the date of the special election and the election shall be conducted by the county election commission.

[From and after the date Laws of 2012, Chapter 525, is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended, this section shall read as follows:]

37-17-13. (1) Whenever the Governor declares a state of emergency in a school district in response to a certification by the State Board of Education and the Commission on School Accreditation made under Section 37-17-6(11)(b), the State Board of Education, in addition to any actions taken

under Section 37-17-6, may abolish the school district and assume control and administration of the schools formerly constituting the district, and appoint a conservator to carry out this purpose under the direction of the State Board of Education. In such case, the State Board of Education shall have all powers which were held by the previously existing school board, and the previously existing superintendent of schools or county superintendent of education, including, but not limited to, those enumerated in Section 37-7-301, and the authority to request tax levies from the appropriate governing authorities for the support of the schools and to receive and expend the tax funds as provided by Section 37-57-1 et seq., and Section 37-57-105 et seq.

(2) When a school district is abolished under this section, loans from the School District Emergency Assistance Fund may be made by the State Board of Education for the use and benefit of the schools formerly constituting the district in accordance with the procedures set forth in Section 37-17-6(14) for such loans to the district. The abolition of a school district under this section shall not impair or release the property of that school district from liability for the payment of the loan indebtedness, and it shall be the duty of the appropriate governing authorities to levy taxes on the property of the district so abolished from year to year according to the terms of the indebtedness until same shall be fully paid.

(3) After a school district is abolished under this section, at such time as the State Board of Education determines that the impairments have been substantially corrected, the State Board of Education shall reconstitute, reorganize or change or alter the boundaries of the previously existing district; however, no partition or assignment of territory formerly included in the abolished district to one or more other school districts may be made by the State Board of Education without the consent of the school board of the school district to which such territory is to be transferred, such consent to be spread upon its minutes. At that time, the State Board of Education, in appropriate cases, shall notify the appropriate governing authority or authorities of its action and request them to provide for the election or appointment of school board members in the manner provided by law. In the event the statute provides that vacancies in the membership of the school board be filled by appointment

by the remaining members of an all-elected school board and no members of the school board remain in office, the Governor shall call a special election to fill the vacancies. In those situations, the Governor shall set the date of the special election and the election shall be conducted by the county election commission.

(4) (a) The State Board of Education shall also request the governing authority or authorities to provide for the appointment of a superintendent or superintendents to govern the reconstituted, reorganized or changed district or districts, which such appointed position shall apply in all school districts including those school districts in which the position of superintendent was previously an elected office.

(b) A board member or superintendent in office at the time the Governor declares a state of emergency in a school district to be abolished shall not be eligible to serve in that office for the school district reconstituted, reorganized or changed after the Governor declares that an emergency no longer exists.

SECTION 2. Section 37-5-19, Mississippi Code of 1972, is amended as follows:

37-5-19. Vacancies in the membership of the county board of education shall be filled by appointment, within sixty (60) days after the vacancy occurs, by the remaining members of the county board of education. Said appointee shall be selected from the qualified electors of the district in which the vacancy occurs, and shall serve until the first Monday of January next succeeding the next general election, at which general election a member shall be elected to fill the remainder of the unexpired term in the same manner and with the same qualifications applicable to the election of a member for the full term. If a school district is under conservatorship of the State Board of Education, and no members of the county board of education remain in office, vacancies in membership of the board of education shall be filled by the election of trustees in a special election called by the Governor for that purpose, and shall be conducted by the county election commission.

In the event the vacancy occurs more than five (5) months prior to the next general election and the remaining members of the county board of education are unable to agree upon

an individual to be appointed, any two (2) of the remaining members may certify such disagreement to the county election commission. Upon the receipt of such a certificate by the county election commission, or any member thereof, the commission shall hold a special election to fill the vacancy, which said election, notice thereof and ballot shall be controlled by the laws concerning special elections to fill vacancies in county or county district offices. The person elected at such a special election shall serve for the remainder of the unexpired term.

SECTION 3. Section 37-7-207, Mississippi Code of 1972, is amended as follows:

37-7-207. (1) All school districts reconstituted or created under the provisions of Article 1 of this chapter, and which lie wholly within one (1) county, but not including municipal separate and countywide districts, shall be governed by a board of five (5) trustees. The first board of trustees of such districts shall be appointed by the county board of education, and the original appointments shall be so made that one (1) trustee shall be appointed to serve until the first Saturday of March following such appointments, one (1) for one (1) year longer, one (1) for two (2) years longer, one (1) for three (3) years longer, and one (1) for four (4) years longer. After such original appointments, the trustees of such school districts shall be elected by the qualified electors of such school districts in the manner provided for in Sections 37-7-223 through 37-7-229, with each trustee to be elected for a term of five (5) years. The five (5) members of the board of trustees of such consolidated school district shall be elected from special trustee election districts by the qualified electors thereof, as herein provided. The board of trustees of any such consolidated school district shall apportion the consolidated school district into five (5) special trustee election districts. The board of trustees of such school district shall place upon its minutes the boundaries determined for the new five (5) trustee election districts. The board of trustees shall thereafter publish the same in a newspaper of general circulation within said school district for at least three (3) consecutive weeks; and after having given notice of publication and recording the same upon the minutes of the board of trustees, said new district lines shall thereafter be effective.

On the first Tuesday after the first Monday in November, in any year in which any consolidated school district shall elect to utilize the authority to create single member election districts, an election shall be held in each such district in this state for the purpose of electing the board of trustees of such district. At said election the member of the said board from District One shall be elected for a term of one (1) year, the member from District Two shall be elected for a term of two (2) years, the member from District Three shall be elected for a term of three (3) years, the member from District Four shall be elected for a term of four (4) years, and the member from District Five shall be elected for a term of five (5) years. Thereafter, members shall be elected at general elections as vacancies occur for terms of five (5) years each. Trustees elected from single member election districts as provided above shall otherwise be elected as provided for in Sections 37-7-223 through 37-7-229. All members of the said board of trustees shall take office on the first Monday of January following the date of their election. All vacancies which may occur during a term shall be filled by appointment of the consolidated school district trustees, but the person so appointed shall serve only until the next general election following such appointment, at which time a person shall be elected for the remainder of the unexpired term at the same time and in the same manner as a trustee is elected for the full term then expiring. The person so elected to the unexpired term shall take office immediately. Said appointee shall be selected from the qualified electors of the district in which the vacancy occurs. If a school district is under the conservatorship of the State Board of Education, and no members of the county board of education remain in office, vacancies in membership of the board of education shall be filled by the election of trustees in a special election called by the Governor for that purpose, and shall be conducted by the county election commission.

(2) All school districts reconstituted and created under the provisions of Article 1 of this chapter, which embrace territory in two (2) or more counties, but not including municipal separate school districts, shall be governed by a board of five (5) trustees. In making the original appointments, the several county boards of education shall appoint the trustee or trustees to which the territory in such county is entitled, and, by agreement between the county boards

concerned, one (1) person shall be appointed to serve until the first Saturday of March following, one (1) for one (1) year longer, one (1) for two (2) years longer, one (1) for three (3) years longer and one (1) for four (4) years longer. Thereafter, such trustees shall be elected as is provided for in Sections 37-7-223 through 37-7-229, for a term of five (5) years. The five (5) members of the board of trustees of such line consolidated school district shall be elected from special trustee election districts by the qualified electors thereof, as herein provided. The existing board of trustees of such line consolidated school district shall apportion the line consolidated school district into five (5) special trustee election districts. The board of trustees shall place upon its minutes the boundaries determined for the new five (5) trustee election districts. The board of trustees shall thereafter publish the same in a newspaper of general circulation within said school district for at least three (3) consecutive weeks; and after having given notice of publication and recording the same upon the minutes of the board of trustees, said new district lines shall thereafter be effective. Provided, however, that in any line consolidated school district encompassing two (2) or more counties created pursuant to Laws, 1953, Extraordinary Session, Chapter 12, Section 8, in which, as a condition precedent to the creation of said district, each county belonging thereto was contractually guaranteed to always have at least one (1) representative on said board, in order that said condition precedent may be honored and guaranteed, in any year in which the board of trustees of such line consolidated school district does not have at least one (1) member from each county or part thereof forming such district, the board of trustees in such district shall be governed by a board of a sufficient number of trustees to fulfill this guarantee, five (5) of whom shall be elected from the five (5) special trustee election districts which shall be as nearly equal as possible and one (1) member trustee appointed at large from each county not having representation on the elected board. In such cases, the board of supervisors of each county shall make written agreement to guarantee the manner of appointment of at least one (1) representative from each county in the district, placing such written agreement on the minutes of each board of supervisors in each county.

On the first Tuesday after the first Monday in November, in any year in which any line consolidated school district

shall elect to utilize the authority to create single member election districts, an election shall be held in each such district in this state for the purpose of electing the board of trustees of such district. At said election the member of the said board from District One shall be elected for a term of one (1) year, the member from District Two shall be elected for a term of two (2) years, the member from District Three shall be elected for a term of three (3) years, the member from District Four shall be elected for a term of four (4) years, and the member from District Five shall be elected for a term of five (5) years. Thereafter, members shall be elected at general elections as vacancies occur for terms of five (5) years each. Trustees elected from single member election districts as provided above shall otherwise be elected as provided for in Sections 37-7-223 through 37-7-229. All members of the said board of trustees shall take office on the first Monday of January following the date of their election. In all elections, the trustee elected shall be a resident and qualified elector of the district entitled to the representation upon the board, and he shall be elected only by the qualified electors of such district. All vacancies which may occur during a term of office shall be filled by appointment of the consolidated line school district trustees, but the person so appointed shall serve only until the next general election following such appointment, at which time a person shall be elected for the remainder of the unexpired term at the same time and in the same manner as the trustee is elected for the full term then expiring. The person so elected to the unexpired term shall take office immediately.

(3) If a school district is under the conservatorship of the State Board of Education, and no members of the county board of education remain in office, vacancies in membership of the board of education shall be filled by the election of trustees in a special election called by the Governor for that purpose, and shall be conducted by the county election commission.

SECTION 4. The Attorney General of the State of Mississippi shall submit this act, immediately upon approval by the Governor, or upon approval by the Legislature subsequent to a veto, to the Attorney General of the United States or to the United States District Court for the District of Columbia in accordance with the provisions of the Voting Rights Act of 1965, as amended and extended.

SECTION 5. This act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended.

Mississippi Legislature

2013 Regular Session

House Bill 987

Description: Ms State Veterans' Home; designate home in Kosciusko as the "Brigadier General Martha Jo Leslie Mississippi State Veterans' Home".

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: Passage

Chapter Number: 392

History of Actions:

- 1 01/21 (H) Referred To Public Property
- 2 01/29 (H) Title Suff Do Pass
- 3 02/06 (H) Passed {Vote}
- 4 02/07 (H) Transmitted To Senate
- 5 02/15 (S) Referred To Public Property
- 6 02/28 (S) Title Suff Do Pass
- 7 03/07 (S) Passed {Vote}
- 8 03/08 (S) Transmitted To House
- 9 03/12 (H) Enrolled Bill Signed
- 10 03/12 (S) Enrolled Bill Signed
- 11 03/20 Approved by Governor

----- **Additional Information** -----

House Committee: Public Property

Senate Committee: Public Property

Principal Author: White

Additional Authors: Dixon, Smith (27th), Scott

Title: AN ACT TO PROVIDE THAT THE MISSISSIPPI STATE VETERANS' HOME IN KOSCIUSKO SHALL BE NAMED THE BRIGADIER GENERAL MARTHA JO LESLIE MISSISSIPPI STATE VETERANS' HOME; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI HB 987

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Public Property

By: Representatives White, Dixon, Smith (27th), Scott

House Bill 987

(As Sent to Governor)

AN ACT TO PROVIDE THAT THE MISSISSIPPI STATE VETERANS' HOME IN KOSCIUSKO SHALL BE NAMED THE BRIGADIER GENERAL MARTHA JO LESLIE MISSISSIPPI STATE VETERANS' HOME; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. The Mississippi State Veterans' Home located in Kosciusko, Mississippi, shall be renamed the "Brigadier General Martha Jo Leslie Mississippi State Veterans' Home." The State Veterans' Affairs Board shall prepare a distinctive plaque, to be placed in a prominent place within the Brigadier General Martha Jo Leslie Mississippi State Veterans' Home, which states the background, accomplishments and service to the state of Brigadier General Martha Jo Leslie.

SECTION 2. This act shall take effect and be in force from and after its passage.

Mississippi Legislature

2013 Regular Session

House Bill 1008

Description: UCC; provide for refusal and termination of false filings.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2013

Chapter Number: 382

History of Actions:

1	01/21	(H)	Referred To Judiciary A
2	01/29	(H)	Title Suff Do Pass
3	01/31	(H)	Passed {Vote}
4	02/01	(H)	Transmitted To Senate
5	02/15	(S)	Referred To Judiciary, Division A
6	02/28	(S)	Title Suff Do Pass
7	03/08	(S)	Passed {Vote}
8	03/11	(S)	Transmitted To House
9	03/14	(H)	Enrolled Bill Signed
10	03/14	(S)	Enrolled Bill Signed
11	03/20		Approved by Governor

Code Section: A 075-0009-0510, A 075-0009-0516

----- **Additional Information** -----

House Committee: Judiciary A

Senate Committee: Judiciary, Division A

Principal Author: Baker

Title: AN ACT TO CREATE SECTION 75-9-501.1, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR REFUSAL AND TERMINATION OF FRAUDULENT OR FALSE UNIFORM COMMERCIAL CODE FILINGS; TO AMEND SECTIONS 75-9-510 AND 75-9-516, MISSISSIPPI CODE OF 1972, IN CONFORMITY; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI HB 1008

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Judiciary A

By: Representative Baker

House Bill 1008

(As Sent to Governor)

AN ACT TO CREATE SECTION 75-9-501.1, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR REFUSAL AND TERMINATION OF FRAUDULENT OR FALSE UNIFORM COMMERCIAL CODE FILINGS; TO AMEND SECTIONS 75-9-510 AND 75-9-516, MISSISSIPPI CODE OF 1972, IN CONFORMITY; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. The following shall be codified as Section 75-9-501.1, Mississippi Code of 1972:

75-9-501.1. (a) No person shall cause to be communicated to the filing office for filing a false record the person knows or reasonably should know:

(1) Is filed with the intent to harass or defraud the person identified as debtor in the record or any other person;

(2) Is not authorized or permitted under Sections 75-9-509, 75-9-708 or 75-9-808 of this article; or

(3) Is not related to a valid existing or potential commercial or financial transaction, an existing agricultural or other lien, or a judgment of a court of competent jurisdiction.

(b) The Secretary of State may initiate a review of a record presented for filing or a filed record if:

(1) The Secretary of State receives an information statement filed by the debtor with the Secretary of State under Section 75-9-518 alleging the record was communicated to the filing office in violation of subsection (a); or

(2) The Secretary of State has reason to believe, from information contained in the record or obtained from the person that communicated the record to the filing office, that the record was communicated to the filing office in violation of subsection (a).

(c) Upon initiating the review, the Secretary of State shall communicate to the secured party of record on the

record to which the review relates and to the person that communicated the record to the filing, if different and known to the office, a request for additional documentation supporting the effectiveness of the record. The Secretary of State may terminate the record effective thirty (30) days after the first request for additional documentation is sent if it has a reasonable basis for concluding that the record was communicated to the filing office in violation of subsection (a). The Secretary of State may give heightened scrutiny to a record when:

(1) The record asserts a claim against a current or former employee or officer of a federal, state, county, or other local governmental unit that relates to the performance of the officer's or employee's public duties, and for which the filer does not hold a properly executed security agreement or judgment from a court of competent jurisdiction;

(2) The record indicates that the debtor and the secured party are substantially the same;

(3) The debtor is a transmitting utility; or

(4) The transaction to which the record relates is a public-finance transaction.

(d) The Secretary of State shall not return any fee paid for filing a record refused or terminated under this section.

(e) The Secretary of State shall promptly communicate to the secured party of record a notice of the refusal or termination of a record under subsection (c). A secured party of record that believes in good faith the record was not communicated to the filing office in violation of subsection (a) may commence an action in the Chancery Court of the First Judicial District of Hinds County, Mississippi, to require the Secretary of State to accept or reinstate the record.

(f) A record ordered by the court to be accepted or reinstated is effective as a filed record from the initial filing date except as against a purchaser of the collateral which gives value in reasonable reliance on the absence of the record from the files.

(g) Neither the filing office nor any of its employees shall incur liability for the termination or failure to terminate a record under this section or for the refusal to accept a

record for filing in the lawful performance of the duties of the office or employee.

(h) This section does not apply to a record communicated to the filing office by a regulated financial institution or by a representative of a regulated financial institution except that the Secretary of State may request from the secured party of record on the record or from the person that communicated the record to the filing office, if different and known to the office, additional documentation supporting that the record was communicated to the filing office by a regulated financial institution or by a representative of a regulated financial institution. "Regulated financial institution" means a financial institution subject to regulatory oversight or examination by a state or federal agency, including, but not limited to, any bank, commercial finance lender or insurer, consumer loan broker, credit union, debt management service provider, finance company, industrial loan company, insurance premium finance company, investment company, investment fund, mortgage service provider, savings association, small loan company, and trust company.

(i) This section applies to records communicated to the filing office for filing before the effective date if the communication constitutes a violation of subsection (a).

SECTION 2. Section 75-9-510, Mississippi Code of 1972, is amended as follows:

75-9-510. (a) A filed record is effective only to the extent that it was filed by a person that may file it under Section 75-9-509.

(b) A record authorized by one (1) secured party of record does not affect the financing statement with respect to another secured party of record.

(c) A continuation statement that is not filed within the six-month period prescribed by Section 75-9-515(d) is ineffective.

(d) A filed record ceases to be effective if the Secretary of State terminates the record pursuant to Section 75-9-501.1.

SECTION 3. Section 75-9-516, Mississippi Code of 1972, is amended as follows:

75-9-516. (a) Except as otherwise provided in subsection (b), communication of a record to a filing office and tender of

2013 GENERAL LAWS OF MISSISSIPPI HB 1008

the filing fee or acceptance of the record by the filing office constitutes filing.

(b) Filing does not occur with respect to a record that a filing office refuses to accept because:

(1) The record is not communicated by a method or medium of communication authorized by the filing office;

(2) An amount equal to or greater than the applicable filing fee is not tendered;

(3) The filing office is unable to index the record because:

(A) In the case of an initial financing statement, the record does not provide a name for the debtor;

(B) In the case of an amendment or correction statement, the record:

(i) Does not identify the initial financing statement as required by Section 75-9-512 or 75-9-518, as applicable;*
* *

(ii) Identifies an initial financing statement whose effectiveness has lapsed under Section 75-9-515; or

(iii) Identifies an initial financing statement which was terminated pursuant to Section 75-9-501.1;

(C) In the case of an initial financing statement that provides the name of a debtor identified as an individual or an amendment that provides a name of a debtor identified as an individual which was not previously provided in the financing statement to which the record relates, the record does not identify the debtor's last name; or

(D) In the case of a record filed, or filed for record, in the filing office described in Section 75-9-501(a)(1), the record does not provide a sufficient description of the real property to which it relates;

(3.5) In the case of an initial financing statement or an amendment, if the Secretary of State believes in good faith that the record was communicated to the filing office in violation of Section 75-9-501.1(a);

(4) In the case of an initial financing statement or an amendment that adds a secured party of record, the record does not provide a name and mailing address for the secured party of record;

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(5) In the case of an initial financing statement or an amendment that provides a name of a debtor which was not previously provided in the financing statement to which the amendment relates, the record does not:

(A) Provide a mailing address for the debtor;

(B) Indicate whether the debtor is an individual or an organization; or

(C) If the financing statement indicates that the debtor is an organization, provide:

(i) A type of organization for the debtor;

(ii) A jurisdiction of organization for the debtor; or

(iii) An organizational identification number for the debtor or indicate that the debtor has none;

(6) In the case of an assignment reflected in an initial financing statement under Section 75-9-514(a) or an amendment filed under Section 75-9-514(b), the record does not provide a name and mailing address for the assignee; or

(7) In the case of a continuation statement, the record is not filed within the six-month period prescribed by Section 75-9-515(d).

(c) For purposes of subsection (b):

(1) A record does not provide information if the filing office is unable to read or decipher the information; and

(2) A record that does not indicate that it is an amendment or identify an initial financing statement to which it relates, as required by Section 75-9-512, 75-9-514 or 75-9-518, is an initial financing statement.

(d) A record that is communicated to the filing office with tender of the filing fee, but which the filing office refuses to accept for a reason other than one set forth in subsection (b), is effective as a filed record except as against a purchaser of the collateral which gives value in reasonable reliance upon the absence of the record from the files.

SECTION 4. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

House Bill 1072

Description: Mississippi Territorial Waters; extend.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2013

Chapter Number: 398

History of Actions:

- | | | | |
|----|-------|-----|--|
| 1 | 01/21 | (H) | Referred To Marine Resources |
| 2 | 02/05 | (H) | Title Suff Do Pass |
| 3 | 02/07 | (H) | Passed {Vote} |
| 4 | 02/08 | (H) | Transmitted To Senate |
| 5 | 02/19 | (S) | Referred To Ports and Marine Resources |
| 6 | 03/04 | (S) | Title Suff Do Pass |
| 7 | 03/07 | (S) | Passed {Vote} |
| 8 | 03/08 | (S) | Transmitted To House |
| 9 | 03/12 | (H) | Enrolled Bill Signed |
| 10 | 03/12 | (S) | Enrolled Bill Signed |
| 11 | 03/20 | | Approved by Governor |

Code Section: A 003-0003-0001

----- Additional Information -----

House Committee: Marine Resources

Senate Committee: Ports and Marine Resources

Principal Author: Eure

Title: AN ACT TO AMEND SECTION 3-3-1, MISSISSIPPI CODE OF 1972, TO DEFINE THE LIMITS AND BOUNDARIES OF THE TERRITORIAL WATERS OF THE STATE OF MISSISSIPPI; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI HB 1072

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Marine Resources

By: Representative Eure

House Bill 1072

(As Sent to Governor)

AN ACT TO AMEND SECTION 3-3-1, MISSISSIPPI CODE OF 1972, TO DEFINE THE LIMITS AND BOUNDARIES OF THE TERRITORIAL WATERS OF THE STATE OF MISSISSIPPI; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 3-3-1, Mississippi Code of 1972, is amended as follows:

3-3-1. The limits and boundaries of the territorial waters of the State of Mississippi* * * shall consist of all territory included within the boundaries described in the act of Congress of March 1, 1817, together with all territory ceded to the State of Mississippi by later acts of Congress or by compacts or agreements with other states, as such territory and boundaries may have been or may be modified by the United States Supreme Court which extends three (3) miles of Cat Island, Ship Island, Horn Island and Petit Bois Island off shore to three (3) Marine Leagues.

SECTION 2. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

House Bill 1080

Description: Emergency telecommunications; extend repealer on training requirements/funding.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Three/Fifths

Effective date: July 1, 2013

Chapter Number: 404

History of Actions:

- | | | | |
|----|-------|-----|----------------------------|
| 1 | 01/21 | (H) | Referred To Appropriations |
| 2 | 02/05 | (H) | Title Suff Do Pass |
| 3 | 02/06 | (H) | Passed {Vote} |
| 4 | 02/07 | (H) | Transmitted To Senate |
| 5 | 02/13 | (S) | Referred To Energy |
| 6 | 02/27 | (S) | Title Suff Do Pass |
| 7 | 03/07 | (S) | Passed {Vote} |
| 8 | 03/08 | (S) | Transmitted To House |
| 9 | 03/12 | (H) | Enrolled Bill Signed |
| 10 | 03/12 | (S) | Enrolled Bill Signed |
| 11 | 03/20 | | Approved by Governor |

Code Section: A 019-0005-0353, A 019-0005-0357

----- Additional Information -----

House Committee: Appropriations

Senate Committee: Energy

Principal Author: Formby

Title: AN ACT TO AMEND SECTION 19-5-353, MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE OF REPEAL ON THE MINIMUM STANDARDS FOR EMERGENCY TELECOMMUNICATORS FROM JULY 1, 2013, TO JULY 1, 2016; TO AMEND SECTION 19-5-357, MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE OF REPEAL ON THE FUNDING FOR THE TRAINING OF SUCH

2013 GENERAL LAWS OF MISSISSIPPI HB 1080

TELECOMMUNICATORS FROM JULY 1, 2013, TO JULY 1, 2016; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI HB 1080

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Appropriations

By: Representative Formby

House Bill 1080

(As Sent to Governor)

AN ACT TO AMEND SECTION 19-5-353, MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE OF REPEAL ON THE MINIMUM STANDARDS FOR EMERGENCY TELECOMMUNICATORS FROM JULY 1, 2013, TO JULY 1, 2016; TO AMEND SECTION 19-5-357, MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE OF REPEAL ON THE FUNDING FOR THE TRAINING OF SUCH TELECOMMUNICATORS FROM JULY 1, 2013, TO JULY 1, 2016; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 19-5-353, Mississippi Code of 1972, is amended as follows:

19-5-353. (1) The initial minimum standard of training for local public safety and 911 telecommunicators shall be determined by the Board of Emergency Telecommunications Standards and Training. All courses approved for minimum standards shall be taught by instructors certified by the course originator as instructors for such courses.

(2) The minimum standards may be changed at any time by the Board of Emergency Telecommunications Standards and Training.

(3) Changes in the minimum standards may be made upon request from any bona fide public safety, emergency medical or fire organization operating within the State of Mississippi. Requests for change shall be in writing submitted to either the State Law Enforcement Training Academy; the State Fire Academy; the Mississippi Chapter of the Associated Public Safety Communications Officers, Incorporated; the Mississippi Chapter of the National Emergency Number Association; the Mississippi State Board of Health, Emergency Medical Services Division; the Mississippi Justice Information Center; the Mississippi Sheriff's Association; the Mississippi Fire Chief's Association; the Mississippi Association of Chiefs of Police; or Mississippians for Emergency Medical Service.

(4) The minimum standards in no way are intended to restrict or limit any additional training which any department or

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agency may wish to employ, or any state or federal required training, but to serve as a basis or foundation for basic training.

(5) Persons in the employment of any public safety, fire, 911 PSAP or emergency medical agency as a telecommunicator on July 1, 1993, shall have three (3) years to be certified in the minimum standards courses provided they have been employed by such agency for a period of more than one (1) year prior to July 1, 1993.

(6) Persons having been employed by any public safety, fire, 911 PSAP or emergency medical agency as a telecommunicator for less than one (1) year prior to July 1, 1993, shall be required to have completed all the requirements for minimum training standards, as set forth in Sections 19-5-351 through 19-5-361, within one (1) year from July 1, 1993. Persons certified on or before July 1, 1993, in any course or courses chosen shall be given credit for these courses, provided the courses are still current and such persons can provide a course completion certificate.

(7) Any person hired to perform the duties of a telecommunicator in any public safety, fire, 911 PSAP or emergency medical agency after July 1, 1993, shall complete the minimum training standards as set forth in Sections 19-5-351 through 19-5-361 within twelve (12) months of their employment or within twelve (12) months from the date that the Board of Emergency Telecommunications Standards and Training shall become operational.

(8) Professional certificates remain the property of the board, and the board reserves the right to either reprimand the holder of a certificate, suspend a certificate upon conditions imposed by the board, or cancel and recall any certificate when:

- (a) The certificate was issued by administrative error;
- (b) The certificate was obtained through misrepresentation or fraud;
- (c) The holder has been convicted of any crime involving moral turpitude;
- (d) The holder has been convicted of a felony; or
- (e) Other due cause as determined by the board.

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When the board believes there is a reasonable basis for either the reprimand, suspension, cancellation of, or recalling the certification of a telecommunicator, notice and opportunity for a hearing shall be provided. Any telecommunicator aggrieved by the findings and order of the board may file an appeal with the chancery court of the county in which such person is employed from the final order of the board. Any telecommunicator whose certification has been cancelled pursuant to Sections 19-5-351 through 19-5-361 may reapply for certification but not sooner than two (2) years after the date on which the order of the board canceling such certification became final.

(9) Any state agency, political subdivision or "for-profit" ambulance, security or fire service company that employs a person as a telecommunicator who does not meet the requirements of Sections 19-5-351 through 19-5-361, or that employs a person whose certificate has been suspended or revoked under provisions of Sections 19-5-351 through 19-5-361, is prohibited from paying the salary of such person, and any person violating this subsection shall be personally liable for making such payment.

(10) These minimum standards and time limitations shall in no way conflict with other state and federal training as may be required to comply with established laws or regulations.

(11) This section shall stand repealed on July 1, * * * 2016.

SECTION 2. Section 19-5-357, Mississippi Code of 1972, is amended as follows:

19-5-357. (1) From and after July 1, 1993, a service charge of Five Cents (5¢) shall be placed on each subscriber service line within the State of Mississippi. This service charge shall apply equally to both private and business lines and shall apply to all service suppliers operating within the State of Mississippi. This subscriber service charge level shall be reviewed periodically to determine if the service charge level is adequate or excessive, and adjustments may be made accordingly.

(2) Every billed service user shall be liable for any service charge imposed under this section until it has been paid to the service supplier. The duty of the service supplier to collect any such service charge shall commence upon the date of its implementation. Any such minimum standards telephone

service charge shall be added to, and may be stated separately in, the billing by the service supplier to the service user.

(3) The service supplier shall have no obligation to take any legal action to enforce the collection of any emergency telephone service charge. However, the service supplier shall annually provide the Board of Emergency Telecommunications Standards and Training with a list of the amount uncollected, together with the names and addresses of those service users who carry a balance that can be determined by the service supplier to be nonpayment of such service charge. The service charge shall be collected at the same time as the tariff rate in accordance with the regular billing practice of the service supplier. Good faith compliance by the service supplier with this provision shall constitute a complete defense to any legal action which may result from the service supplier's determination of nonpayment and/or the identification of service users in connection therewith.

(4) The amounts collected by the service supplier attributable to the minimum standards telephone service charge shall be deposited monthly into a special fund hereby created in the State Treasury. The amount of service charge collected each month by the service supplier shall be remitted to the special fund no later than sixty (60) days after the close of the month. A return, in such form as prescribed by the* * * Department of Revenue, shall be filed with the* * * Department of Revenue, together with a remittance of the amount of service charge collected payable to the special fund. The service supplier shall maintain records of the amount of service charge collected for a period of at least three (3) years from date of collection. From the gross receipts to be remitted to the special fund, the service supplier shall be entitled to retain as an administrative fee, an amount equal to one percent (1%) thereof. This service charge is a state fee and is not subject to any sales, use, franchise, income, excise or any other tax, fee or assessment, and shall not be considered revenue of the service supplier for any purpose. All administrative provisions of the Mississippi Sales Tax Law, including those which fix damages, penalties and interest for nonpayment of taxes and for noncompliance with the provisions of such chapter, and all other duties and requirements imposed upon taxpayers, shall apply to all persons liable for fees under the provisions of this chapter, and the* * * Commissioner of Revenue shall exercise all

the power and authority and perform all the duties with respect to taxpayers under this chapter as are provided in the Mississippi Sales Tax Law except where there is a conflict, then the provisions of this chapter shall control.

(5) The proceeds generated by the minimum standards service charge shall primarily be used by the board pursuant to legislative appropriation to fund the minimum standards training program for public safety telecommunications within the State of Mississippi. These funds shall be applied on a first-come

first-served basis, which shall be determined by the date of application. All city, county and state public safety telecommunications, including those employed by city and/or county supported ambulance services and districts, shall be eligible to receive these funds to meet minimum standards training requirements. No "for-profit" ambulance, security or fire service company operating in the private sector shall be qualified to receive these minimum standards training funds unless the company is on contract with a local government to provide primary emergency response. Law enforcement officers, fire and emergency medical personnel who are used as part-time or "fill-in" telecommunications shall also be eligible to receive funding for this minimum standards training, provided they serve at least eight (8) hours per month as a telecommunicator. However, emergency medical personnel who are used as part-time or "fill-in" telecommunications and are employed by any for-profit ambulance company operating in the private sector shall be eligible to receive funding for the minimum standards training, provided they serve at least twenty (20) hours per week as a telecommunicator. These funds may also be expended by the Board of Emergency Telecommunications Standards and Training to administer the minimum standards program for such things as personnel, office equipment, computer software, supplies and other necessary expenses.

(6) The Board of Emergency Telecommunications Standards and Training shall be authorized to reimburse any public safety agency or emergency medical service for meals, lodging, travel, course fees and salary during the time spent training, upon successful completion of such course. Funds may also be expended to train certain individuals to become certified instructors of the various courses included in these minimum

standards in order to conduct training within the State of Mississippi.

(7) If the proceeds generated by the minimum standards service charge exceed the amount of monies necessary to fund the service, the Board of Emergency Telecommunications Standards and Training may authorize such excess funds to be available for advanced training, upgraded training and recertification of instructors. Any funds remaining at the close of any fiscal year shall not lapse into the State General Fund but shall be carried over to the next fiscal year to be used as a beginning balance for the fiscal requirements of such year.

(8) This section shall stand repealed on July 1, * * * 2016.

SECTION 2. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

House Bill 1134

Description: Mississippi Public Utility Rate Mitigation and Reduction Act; create.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: Passage

Chapter Number: 305

History of Actions:

1	01/21	(H)	Referred To Public Utilities
2	01/30	(H)	Title Suff Do Pass
3	02/08	(H)	Amended
4	02/08	(H)	Passed As Amended {Vote}
5	02/08	(H)	Motion to Reconsider Entered (Shirley, Beckett)
6	02/11	(H)	Motion to Reconsider Tabled
7	02/12	(H)	Transmitted To Senate
8	02/12	(S)	Referred To Energy
9	02/13	(S)	Title Suff Do Pass
10	02/14	(S)	Passed {Vote}
11	02/15	(S)	Transmitted To House
12	02/19	(H)	Enrolled Bill Signed
13	02/19	(S)	Enrolled Bill Signed
14	02/26		Approved by Governor

Amendments:

[H] Amendment No 1 *Adopted* Voice Vote

[H] Amendment No 2Lost Voice Vote

[H] Amendment No 3Lost Voice Vote

[H] Amendment No 4Lost Voice Vote

[H] Amendment No 5Lost Voice Vote

[H] Amendment No 6Lost Voice Vote

[H] Amendment No 7Lost Voice Vote

[H] Amendment No 8Lost Voice Vote

[H] Amendment No 9Lost Voice Vote

[H] Amendment No 10Lost Voice Vote

[H] Amendment No 11 *Adopted* Voice Vote

----- **Additional Information** -----

House Committee: Public Utilities

Senate Committee: Energy

Principal Author: Beckett

Title: AN ACT TO CREATE THE MISSISSIPPI PUBLIC UTILITY RATE MITIGATION AND REDUCTION ACT; TO DEFINE CERTAIN TERMS AS USED IN THE ACT; TO PROVIDE A MECHANISM WHEREBY THE PUBLIC SERVICE COMMISSION SHALL ENTER A FINANCING ORDER AUTHORIZING THE ISSUANCE OF RATE REDUCTION BONDS, THE PROCEEDS OF WHICH ARE USED TO RECOVER, FINANCE OR REFINANCE GENERATION FACILITY COSTS AND FINANCING COSTS FOR CERTAIN NEWLY CONSTRUCTED BASE LOAD ELECTRIC GENERATING FACILITIES THAT USE COAL GASIFICATION OR CLEAN COAL TECHNOLOGY; TO PROVIDE FOR THE IMPLEMENTATION OR ADJUSTMENT OF A RATE REDUCTION BOND CHARGE; TO PROVIDE THAT THE RATE REDUCTION BONDS SHALL NOT CONSTITUTE A DEBT OR A PLEDGE OF THE FAITH AND CREDIT OR TAXING POWER OF THE STATE OF MISSISSIPPI; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI HB 1134

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Public Utilities

By: Representative Beckett

House Bill 1134

(As Sent to Governor)

AN ACT TO CREATE THE MISSISSIPPI PUBLIC UTILITY RATE MITIGATION AND REDUCTION ACT; TO DEFINE CERTAIN TERMS USED IN THE ACT; TO PROVIDE A MECHANISM WHEREBY THE PUBLIC SERVICE COMMISSION SHALL ENTER A FINANCING ORDER AUTHORIZING THE ISSUANCE OF RATE REDUCTION BONDS, THE PROCEEDS OF WHICH ARE USED TO RECOVER, FINANCE OR REFINANCE GENERATION FACILITY COSTS AND FINANCING COSTS FOR CERTAIN NEWLY CONSTRUCTED BASE LOAD ELECTRIC GENERATING FACILITIES THAT USE COAL GASIFICATION OR CLEAN COAL TECHNOLOGY; TO PROVIDE FOR THE IMPLEMENTATION OR ADJUSTMENT OF A RATE REDUCTION BOND CHARGE; TO PROVIDE THAT THE RATE REDUCTION BONDS SHALL NOT CONSTITUTE A DEBT OR A PLEDGE OF THE FAITH AND CREDIT OR TAXING POWER OF THE STATE OF MISSISSIPPI; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. This act shall be known and may be cited as the "Mississippi Public Utility Rate Mitigation and Reduction Act."

SECTION 2. The Legislature finds, determines and declares the following to be in the public interest and the policy of the State of Mississippi:

(1) It is the policy of the State of Mississippi to regulate the business of electric public utilities in such a manner that allows the recovery of prudently incurred costs.

(2) Consistent with the policy of the State of Mississippi to seek out and implement measures designed to provide the lowest reasonable electric public utility rates, public utility securitization financing arrangements provides lower customer rates for newly constructed base load electric generating facilities, as compared to traditional utility ratemaking options available to the Public Service Commission, and ensures the continued financial strength of Mississippi electric public utilities.

(3) Public utility securitization financing arrangements provides lower customer rates for newly constructed base load electric generating facilities and ensures the continued financial strength of Mississippi electric public utilities.

(4) The reduction of customer rate impacts for base load electric generating facilities through securitization is in the public interest.

SECTION 3. The following shall be codified as Section 77-3-111, Mississippi Code of 1972 :

77-3-111. As used in Sections 77-3-111 through 77-3-127:

(a) "Assignee" means any person or legal entity to which an interest in security property is sold, assigned, transferred or conveyed (other than as security) and any successor to or subsequent assignee of such a person or legal entity.

(b) "Bondholder" means any holder or owner of a rate reduction bond.

(c) "Commission" means the Mississippi Public Service Commission.

(d) "Financing costs" means:

(i) Any payment made on or before issuance of rate reduction bonds and any amount required to fund any reserves or other accounts established pursuant to the terms of any financing order, indenture or other financing documents pertaining to rate reduction bonds;

(ii) Principal, interest and acquisition, defeasance or redemption premiums and all other amounts that are payable on rate reduction bonds;

(iii) Any amount required to be paid under any financing document;

(iv) Any amount required to fund or replenish any reserves or other accounts established pursuant to the terms of any financing order, indenture, financing document or other financing document pertaining to rate reduction bonds;

(v) Any taxes, fees, franchise, transfer, profits, license, excise, severance, customs, duties, assessments or other charges imposed by any governmental or taxing authority on the rate reduction bond charge revenue whether paid, payable or accrued;

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(vi) Any other cost related to issuing, supporting, repaying, servicing, retiring, refinancing or refunding rate reduction bonds and all other required amounts payable in connection therewith, including, but not limited to, servicing fees and expenses, accounting and auditing fees and expenses, legal fees and expenses, consulting fees and expenses, security registration fees, trustee fees and expenses, insurance premiums, administrative fees, placement and underwriting fees, rating agency fees, stock exchange listing fees, compliance fees, costs to create or amend financing documents, and costs to obtain waivers, consents or approvals;

(vii) Any costs and expenses associated with the creation, operation, management and winding up of any special purpose entity created by the electric public utility in connection with the issuance of rate reduction bonds; and

(viii) Any other costs deemed appropriate by the commission.

(e) "Financing document" or "financing documents" means any bond, insurance policy, letter of credit, reserve account, surety bond, swap agreement, hedging arrangement, liquidity or credit support arrangement, trust indenture, security agreement, pledge agreement, financing agreement, transfer or assignment document, or other document or financial arrangement entered into in connection with the issuance of rate reduction bonds.

(f) "Financing party" shall include any and all of the following:

(i) Any trustee, collateral agent, or other person acting on behalf or for the benefit of any bondholder under any financing document; or

(ii) Any party to a financing document, the rights and obligations of which relate to or depend upon the existence of security property, the enforcement and priority of a security interest in security property, the timely collection and payment of rate reduction bond charge revenues, or a combination of any of the foregoing.

(g) "Financing statement" shall have the same meaning as that provided in Article 9 of the Uniform Commercial Code, as same may be amended from time to time.

(h) "Issuing entity" means any person or legal entity, including, but not limited to, any corporation, limited liability company, partnership, limited partnership, public authority or trust, that issues rate reduction bonds pursuant to a financing order issued pursuant to this article.

(i) "Non-bypassable" means, with respect to rate reduction bond charges, that, so long as rate reduction bonds are outstanding and the related financing costs have not been recovered in full, such charges cannot be avoided by any retail customer of the electric public utility, including special contract customers, or any other person located within the electric public utility's certificated area that is directly or indirectly connected to electric facilities of the electric public utility or its successors or assignees and receiving retail electric service pursuant to a commission approved rate, even if such retail customer or other person elects to purchase electricity from an alternative electricity supplier following a fundamental change in regulation of electric public utilities in this state.

(j) "Qualifying facility" shall mean a generating facility as the term is defined in Section 77-3-103:

(i) That uses coal gasification or clean coal technology with a coal fuel stock derived, in whole or in part, from the State of Mississippi; and

(ii) That is placed into commercial operation on or before December 31, 2020.

(k) "Qualifying facility cost" means any cost incurred or expected to be incurred by an electric public utility related to a qualifying facility, including, but not limited to, pre-construction costs, construction costs, capitalized cost relating to a regulatory asset, any amounts accrued as allowance for funds used during construction and construction work in progress.

(l) "Rate reduction bonds" or "bonds" means those debentures, notes, certificates of participation, certificates of beneficial interest, certificates of ownership or other evidences of indebtedness or ownership that are issued by an issuing entity under a financing order, the proceeds of which are used directly or indirectly to recover, finance or refinance generation facility costs and financing costs, and that are secured by or payable from security property and which shall

have a maturity date of no more than twenty (20) years after the date of issuance.

(m) "Rate reduction bond charge" means the nonbypassable tariff, rate, charge, formula or mechanism established in a financing order to fully recover financing costs, which is to be imposed on, and as a part of, all retail customer bills, including special contract customer bills, and collected by an electric public utility or its successors or assignees, or a collection agent, separate and apart from the base rates of the electric public utility.

(n) "Rate reduction bond charge revenue" means any and all revenues, receipts, collections, claims, rights to payments, payments, monies or other proceeds arising from the security property and collected by an electric public utility or other collection agent that is attributable to a rate reduction bond charge.

(o) "Secured party" means a financing party to which an electric public utility, issuing entity or their respective successors or assignees mortgages, negotiates, hypothecates, grants, pledges, or creates a security interest or lien on all or any portion of the rights in or to the security property.

(p) "Security property" means all rights and interests of an electric public utility established upon the issuance of a financing order under this article, including, but not limited to:

(i) The right to bill and to obtain periodic true-up adjustments to the rate reduction bond charge as provided in the financing order and this article;

(ii) The right to receive rate reduction bond charge revenue, as periodically adjusted, imposed, billed, collected and transferred; and

(iii) All revenues, receipts, collections, claims, rights to payments, payments, money or other proceeds arising from the rights and interests described in subparagraphs (i) and (ii) of this subsection, regardless of whether such collections, claims, rights to payment, payments, money or proceeds are imposed, billed, received, collected, or maintained together with or commingled with other revenues, receipts, collections, rights to payment, payments, money or other proceeds of an electric public utility or collection agent.

(q) "Uniform Commercial Code" shall have the same meaning as provided in Title 75 of the Mississippi Code of 1972.

SECTION 4. The following shall be codified as Section 77-3-113, Mississippi Code of 1972:

77-3-113. (1) Subject to the agreement by the affected electric public utility, the commission shall cause to be financed, consistent with the procedures set forth in this article, all qualifying facility costs found to be prudent by the commission that are incurred over the estimate of such costs presented by the electric public utility in the certificate proceeding for the qualifying facility, up to a maximum of One Billion Dollars (\$1,000,000,000.00). To accomplish the goals contained herein, the commission shall enter a financing order authorizing the issuance of rate reduction bonds by an electric public utility and to make such other findings and determinations as are provided for in this article. The commission shall utilize a competitive Requests for Proposals process to select any bond attorney or counsel and may not accept any proposal in excess of Five Hundred Thousand Dollars (\$500,000.00).

(2) Upon request by the commission in accordance with the requirements of subsection (1) of this section, the electric public utility owning a qualifying facility, in whole or in part, and whose rates are subject to the jurisdiction of the commission, shall submit a petition presenting the following information:

(a) Describe the qualifying facility and related qualifying facility costs in rate base or to be included in rate base;

(b) Indicate the total amount of qualifying facility cost required to be financed by the electric public utility using proceeds from rate reduction bonds;

(c) Estimate the financing costs related to the rate reduction bonds;

(d) Describe and estimate the rate reduction bond charge necessary to recover the financing costs as they become due and the proposed period for recovery of such costs;

(e) Estimate the projected cost savings to customers based upon then current market conditions resulting from financing the qualifying facility cost with rate reduction

bonds as opposed to including the amount of such cost in rate base and recovering the revenue requirements associated with such cost over the depreciable life of the qualifying facility;

(f) File with the commission direct testimony supporting the application; and

(g) Timely provide the commission or the public utilities staff, as applicable, such additional information and documentation as either may reasonably request.

SECTION 5. The following shall be codified as Section 77-3-115, Mississippi Code of 1972:

77-3-115. (1) Proceedings on a petition submitted pursuant to Section 77-3-113 shall be disposed of in accordance with the provisions of Section 77-3-47 and applicable commission procedural rules, except that the provisions of this Section 77-3-115, to the extent applicable, shall control.

(2) Within seven (7) days after the filing of a petition, the commission shall issue a scheduling order, which sets a hearing date and provides for a decision on the issuance of a financing order not more than one hundred twenty (120) days after the date the petition is filed.

(3) When deemed necessary by the Executive Director of the Public Utilities Staff, the staff shall conduct an independent investigation as to the electric public utility's petition for a financing order subject to and within the time limitations prescribed in this article.

(4) Not more than one hundred twenty (120) days after the date the petition is filed, the commission shall issue a financing order or an order denying the petition.

(5) Any party to the commission proceeding may petition the commission for reconsideration of an order granting or denying a petition for the issuance of a financing order not more than seven (7) days after the date the order is issued. The commission shall rule on the petition for reconsideration not more than fourteen (14) days after the filing of such petition. A failure by the commission to act upon such petition for reconsideration within the specified time period shall be deemed a denial of the petition for reconsideration, and the order of the commission granting or denying a petition for the issuance of a financing order shall be deemed final.

(6) Any judicial review shall be as provided in Section 77-3-72; provided, however, that any person, other than the electric public utility that is the subject of the financing order, seeking to appeal a financing order issued pursuant to this article, or any prudence determination related thereto, shall not perfect its appeal unless and until a bond of sufficient amount to protect the customer savings projected to be realized through the issuance of rate reduction bonds as determined by the commission in the financing order pursuant to Section 77-3-117(b) is filed with the commission prior to expiration of time provided under Section 77-3-72 for the filing of a notice of appeal. If an appeal of an order granting or denying a petition for the issuance of a financing order is perfected pursuant to the procedure provided above, the electric public utility shall be authorized to establish a regulatory asset for the purpose of deferring a return on the qualifying facility cost intended to be financed by the rate reduction bond proceeds equal to the utility's weighted average cost of capital until such time as there is a final financing order for which the time for all appeals has expired. A financing order shall provide that any and all deferred return of the electric public utility during the pendency of an appeal may be financed as qualifying costs pursuant to the provisions of this article.

(7) The filing of a petition by an electric public utility, the issuance of a financing order, the issuance of rate reduction bonds and the implementation or adjustment of a rate reduction bond charge under this article shall not constitute a change in rates pursuant to Section 77-3-37 or 77-3-39.

SECTION 6. The following shall be codified as Section 77-3-117, Mississippi Code of 1972:

77-3-117. (1) In a financing order issued on behalf of an electric public utility, the commission shall:

(a) Specify the maximum amount of qualifying facility cost to be financed through the issuance of rate reduction bonds.

(b) Determine that the financing method proposed pursuant to this article is reasonably expected to result in lower overall costs to customers associated with the qualifying facility compared to including the qualifying facility cost amount specified in paragraph (a) of this subsection (1) in

rate base and recovering the revenue requirements over the depreciable life of the qualifying facility.

(c) Provide that, until the rate reduction bonds are paid in full and all related financing costs are fully recovered, the imposition and collection of the rate reduction bond charge shall be nonbypassable as such term is defined in this article.

(d) Establish and employ a formula-based true-up mechanism for making expeditious periodic adjustments in the rate reduction bond charge that customers are required to pay under the financing order and for making any adjustments to the rate reduction bond charge that are necessary to correct for any overcollection or undercollection of the rate reduction bond charge or to otherwise ensure the timely payment of financing costs.

(e) Specify the security property to be created in favor of the electric public utility upon the issuance of a financing order to secure prompt payment of the rate reduction bonds and all associated financing costs.

(f) Specify, to the extent reasonably practicable, the terms and conditions of the rate reduction bonds, including, but not limited to, repayment schedules, expected interest rates and financing costs; provided, however, the commission shall afford the issuing entity flexibility in establishing the terms and conditions for the rate reduction bonds to accommodate changes in market conditions, including, but not limited to, repayment schedules, interest rates, financing costs, collateral requirements, required debt service and other reserves, and the ability of the issuing entity, at its option, to effect a series of issuances of rate reduction bonds and correlated assignments, sales, pledges or other transfers of security property.

(g) Provide that the rate reduction bond charge be allocated to the customer rate classes or rate schedules in the same manner that each such class or rate schedule is allocated its portion of the revenue requirements associated with the qualifying facility included in the electric public utilities rate base and rates.

(h) Provide that upon the issuance of rate reduction bonds, the electric public utility shall institute the resulting initial rate reduction bond charge in accordance

with the financing order and such initial rate reduction bond charge shall be final and effective upon the issuance of such rate reduction bonds without further action of the commission.

(i) Include any other conditions that the commission considers appropriate and that are not otherwise inconsistent with this article.

(j) Unless otherwise specified in the financing order, any rate reduction bond charge revenue remaining after all financing costs have been paid in full shall be credited to the retail customers of the electric public utility in a manner to be determined by the commission.

(2) Following issuance of a financing order, the electric public utility may establish a special purpose entity for the purpose of acting as the issuing entity and such issuing entity may issue rate reduction bonds as provided in the financing order. The electric public utility retains sole discretion to establish a special purpose entity and cause it to issue rate reduction bonds. An issuing entity established by an electric public utility pursuant to this article shall not constitute a public utility pursuant to Section 77-3-3.

(3) If an electric public utility subject to a financing order creates a special purpose entity for the purpose of acting as the issuing entity, rate reduction bonds shall not be considered a debt of the electric public utility for regulatory or ratemaking purposes; but, the electric public utility shall have only a duty to collect and remit to the issuing entity all rate reduction bond charge revenue with respect to the rate reduction bonds. Similarly, the special purpose entity or any other assignee of security property shall have no ownership interest in the qualifying facility or any related facilities, property and assets of the electric public utility whether fully or partially financed with proceeds from rate reduction bonds.

(4) A financing order shall remain in full effect and unabated notwithstanding the reorganization, bankruptcy, or other insolvency proceedings of the electric public utility or its successors or assigns. Subsequent to the issuance of rate reduction bonds authorized by a financing order, the financing order shall be irrevocable, and the commission may not:

(a) Amend, modify or terminate the financing order by any subsequent action; or

(b) Reduce, impair, postpone, terminate or otherwise adjust the rate reduction bond charge and security property approved and established in the financing order except as provided in Section 77-3-119.

(5) At the request of an electric public utility, the commission may commence a proceeding and issue a subsequent financing order that authorizes the refinancing or refunding of rate reduction bonds issued pursuant to the original financing order if the commission finds that the subsequent financing order satisfies all of the criteria specified in this article. Effective on retirement of the rate reduction bonds and the issuance of new rate reduction bonds, the commission shall adjust the related rate reduction bond charge accordingly.

SECTION 7. The following shall be codified as Section 77-3-119, Mississippi Code of 1972:

77-3-119. (1) If the commission issues a financing order and rate reduction bonds are issued, the issuing entity shall, as frequently as quarterly but no less frequently than annually, file with the commission a true-up report requesting the commission to review the rate reduction bond charge established in the financing order and authorize the true-up adjustments described herein. A copy of such report shall promptly be served upon the electric public utility collecting the rate reduction bond charge. The report shall present the amount of any overcollection or undercollection of the rate reduction bond charge and shall include a schedule applying the approved true-up adjustment mechanism authorized in the financing order and the resulting amount of any true-up adjustment required to ensure the recovery of revenues sufficient to provide for the timely payment of all financing costs when due.

(2) The commission's review of the true-up report shall be limited to a determination of the existence and amount of any mathematical errors in the report concerning the application of the approved true-up adjustment mechanism. Within thirty (30) days after receiving a true-up report pursuant to this section, the commission shall, if necessary, revise the rate reduction bond charge and notify the electric public utility of such revision, or, if no revision to the rate reduction bond charge is required, the commission shall so notify the

electric public utility. A true-up report requesting to revise the rate reduction bond charge shall be deemed approved if the requested revision is neither approved nor denied by the commission within thirty (30) days after the request is submitted.

(3) Any true-up report requesting a true-up adjustment of a rate reduction bond charge shall not constitute a change in rates and shall not be subject to the requirements of Section 77-3-37 or 77-3-39.

(4) Upon the adjustment of a rate reduction bond charge pursuant to this section and notification to the electric public utility, the electric public utility shall promptly adjust the rate reduction bond charge to become effective the next practicable billing cycle.

SECTION 8. The following shall be codified as Section 77-3-121, Mississippi Code of 1972:

77-3-121. (1) The rate reduction bond charge is a nonbypassable charge, and in the event an electric public utility subject to a financing order, as a result of insolvency, sale, a fundamental change in regulation of electric public utilities in this State, or other reason, ceases to serve customers within all or a portion of its certificated area, the commission shall have the obligation to ensure that the rate reduction bond charge is collected and transmitted to the issuing entity by any subsequent electric public utility providing service in such certificated area, or portion thereof, no longer being served by the electric public utility that originally petitioned for the financing order.

(2) If an electric public utility fails to remit any required payment of rate reduction bond charge revenues to an assignee, issuing entity, financing party or bondholder, as applicable, such assignee, issuing entity, financing party or bondholder shall have no legal remedy either at law or equity against the electric public utility or its assets, except as specifically provided below:

(a) A court, upon application by an assignee, issuing entity, financing party or bondholder, shall order the sequestration and payment of the rate reduction bond charge revenues for the benefit of any bondholder, assignee, financing party and/or issuing entity.

(b) The court's order shall remain in full force and effect notwithstanding any bankruptcy, reorganization, or other insolvency proceedings with respect to the electric public utility or any affiliate thereof.

SECTION 9. The following shall be codified as Section 77-3-123, Mississippi Code of 1972:

77-3-123. (1) The security property shall constitute an existing, present and legally protectable property right that shall exist regardless of whether the rate reduction bond charges have been billed, have accrued, or have been collected, and notwithstanding any requirement that the value or amount of the property is dependent on the future provision of service to customers by the electric public utility.

(2) Security property authorized and established by a financing order shall continue to exist until the rate reduction bonds issued pursuant to such financing order are paid in full and all financing costs have been recovered in full.

(3) The security property authorized and established by a financing order and the interests of an assignee, bondholder, financing party or issuing entity in the security property are not subject to setoff, recoupment, counterclaim, surcharge, or defense by the electric public utility subject to the financing order or by any other person or entity, including as a result of the electric public utility's failure to provide past, present, or future services, or in connection with the bankruptcy, reorganization, or other insolvency proceeding of the electric public utility, any affiliate, or any other person or legal entity.

(4) All or any portion of security property created by a financing order may be sold, assigned, transferred or conveyed to an assignee for the purpose of acquiring, owning or administering the security property, issuing rate reduction bonds or a combination of these purposes. Any sale, assignment, transfer or conveyance of security property shall be governed by this article.

(5) Any sale, assignment, transfer or conveyance of security property to an assignee shall constitute an absolute transfer and true sale of, and not a pledge of or secured transaction relating to, the seller's right, title and interest in, to and under the security property if the documents governing the transaction expressly state that the transaction is a sale

or other absolute transfer. A sale, assignment, transfer or conveyance shall be effective only when all of the following have occurred:

(a) The financing order has been issued and has become final;

(b) The sale agreement, purchase agreement or other documents evidencing the sale, assignment, transfer or conveyance of the security property have been executed and delivered to the assignee; and

(c) Value has been given for the security property.

(6) The characterization of the sale, assignment, transfer or conveyance of the security property as an absolute transfer and true sale and the corresponding characterization of the property interest of the assignee, shall not be affected or impaired by, among other things, the occurrence of any of the following factors:

(a) Commingling of rate reduction bond charge revenues with other revenues of the electric public utility or any assignor;

(b) The retention by the electric public utility or assignor of (i) a partial or residual interest, including an equity interest, in the security property, whether direct or indirect, or whether subordinate or otherwise, or (ii) the right to recover costs associated with taxes, franchise fees or other fees imposed on the collection of rate reduction bond charge revenue;

(c) Any recourse that the assignee may have against the electric public utility or any assignor;

(d) Any indemnification rights, obligations or repurchase rights made or provided by the electric public utility or any assignor;

(e) The obligation of the assignor to collect and remit rate reduction bond charge revenue to or on behalf of an assignee;

(f) The regulatory or accounting treatment of the sale, assignment or transfer for tax, financial reporting or other purposes;

(g) Any application of the true-up mechanism as provided in Section 77-3-119;

(h) Granting or providing the bondholders a preferred right to the security property or credit enhancement by the electric public utility or its affiliates with respect to the rate reduction bonds; or

(i) Any rights or interests of the electric public utility in any remaining rate reduction bond charge revenue which may vest upon full payment of the rate reduction bonds as provided for in Section 77-3-117(1)(j).

(7) Once sold, transferred, assigned or conveyed to an assignee as provided in this article, security property shall not be an asset of the electric public utility; but, the electric public utility shall have only a duty to collect and remit to the issuing entity all rate reduction bond charge revenue with respect to the rate reduction bonds.

SECTION 10. The following shall be codified as Section 77-3-125, Mississippi Code of 1972:

77-3-125. (1) All or any portion of the security property may be pledged or otherwise used by the issuing entity as collateral or other security to secure the payment of financing costs. Except as specifically provided in this article or in any of the financing documents, only this article and not the Uniform Commercial Code shall govern:

(a) Security property and any right, title or interest of an electric public utility, an assignee or an issuing entity, whether before or after the issuance of a financing order, in such security property;

(b) The validity, creation, attachment, grant, perfection, priority and enforcement of liens and security interests in security property to secure payment of financing costs;

(c) The validity, attachment, perfection and priority with respect to the transfer of an interest or right or the pledge or creation of a security interest in any security property.

In the event of any conflict between this article and any other law regarding the provisions of Section 77-3-125, this article shall govern to the extent of the conflict.

(2) A valid, enforceable and attached lien and security interest in security property shall be created upon the occurrence of all of the following and in no other manner:

(a) The issuance of a financing order contemplating a security interest in the security property;

(b) The execution and delivery of a security agreement by the issuing entity in connection with the issuance of rate reduction bonds which grants a security interest in the security property; and

(c) The giving of value for the rate reduction bonds.

(3) A valid, enforceable and attached security interest may be created in the security property without any physical delivery of collateral or other act, and shall be perfected against all parties upon the filing of a financing statement in the Office of the Secretary of State of Mississippi and shall thereafter be a continuously perfected lien, and such security interest in security property shall have priority over any other lien, created by contract, operation of law or otherwise, which may subsequently be perfected in the security property unless the holder of any such prior lien has agreed in writing otherwise.

(4) Any sale, assignment, transfer or conveyance of an interest in security property shall not affect the priority of a security interest previously perfected in such security property against all parties having claims of any kind, including any judicial lien or other lien creditors or any claims of the assignor or creditors of the assignor, other than creditors holding a prior security interest, ownership interest or assignment in the security property previously perfected in accordance with this article.

(5) The filing of a financing statement with the Office of the Secretary of State of Mississippi in accordance with this section shall be the only method of perfecting a lien on or security interest in security property. The Office of the Secretary of State of Mississippi shall maintain any financing statement filed pursuant to this section in the same manner that the Office of the Secretary of State of Mississippi maintains financing statements filed against transmitting utilities under Section 75-9-501(b). The filing of any financing statement pursuant to this section shall be governed by the provisions regarding the filing of financing statements in Part 5 of Chapter 9, Title 75 of the Mississippi Code of 1972, codified at Miss. Code Ann. Section 75-9-501 et seq.; provided, however, no continuation statement need be filed to maintain a perfected,

valid, enforceable and attached security interest in security property.

(6) The priority of a sale, assignment, transfer, conveyance, lien or security interest perfected in security property pursuant to this article is not impaired by any later modification of the financing order or security property, any application of the true-up adjustment mechanism, or by the commingling of funds arising from the security property with other funds of an electric public utility or collection agent, and any other right, title, lien or security interest that may apply to those funds shall be terminated as to all funds transferred to an issuing entity, assignee, or financing party directly or transferred to a segregated account for the benefit of an issuing entity, assignee, or financing party.

(7) The description of security property being sold, assigned, transferred or conveyed to an assignee in any sale agreement, purchase agreement, or other transfer agreement, granted or pledged to a secured party in any security agreement, pledge agreement, or other security document, or indicated in any financing statement, shall be sufficient if it describes the financing order that created the security property and states that such agreement or financing statement covers all or part of the security property described in such financing order. This subsection applies to all purported sales, assignments, transfers or conveyances of, and all purported grants or liens or security interests in, security property, regardless of whether the related agreements were entered into or financing statements were filed, before or after the original effective date of this subsection.

(8) Any right, title or interest pertaining to a financing order, including, but not limited to, the associated security property and rate reduction bond charge revenues shall not be deemed proceeds of any right or interest other than in the financing order and the security property arising from the financing order.

SECTION 11. The following shall be codified as Section 77-3-127, Mississippi Code of 1972:

77-3-127. (1) Rate reduction bonds issued under a financing order shall not constitute a debt or a pledge of the faith and credit or taxing power of the State of Mississippi or of any county, municipality, or any other political subdivision of this state. The issuing entity, assignee, bondholders

and financing parties shall have no right to have taxes levied by this state or the taxing authority of any county, municipality, or any other political subdivision of this state for the payment of the principal of, interest on or other financing costs related to rate reduction bonds. The issuance of rate reduction bonds does not, directly, indirectly, or contingently, obligate this state or any county, municipal corporation, or political subdivision of this state to levy any tax or make any appropriation for payment of the principal of, interest on or other financing costs related to the rate reduction bonds.

(2) The state pledges to and agrees with the bondholders, any issuing entity, and any other party under a financing order that the state will not take or permit any action that impairs the value of the security property under the financing order or, except as allowed under Section 77-3-119, reduce, alter or impair rate reduction bond charges that are imposed, charged, collected or remitted for the benefit of the bondholders, any assignee, and any issuing entity, until all principal, interest and redemption premium in respect of rate reduction bonds, all financing costs, all issuing costs and all amounts to be paid to an issuing entity are paid or performed in full. Any attempt by resolution, bill, motion, order, referendum, amendment, judgment, decision, opinion or other act made contrary to the above pledge by the legislative branch, executive branch, judicial branch, commission or citizenry which impairs or attempts to impair the security property shall require just compensation to the security property owner or owners prior to taking effect.

(3) An issuing entity may include the pledge specified in subsection (2) of this section in the rate reduction bonds, financing documents, and documentation related to the issuance and marketing of the rate reduction bonds.

SECTION 12. The provisions of this act shall be deemed to be full and complete authority for the exercise of the powers therein granted. It is the intent of the Legislature that the authority provided under this act be limited to the implementation of alternate financing arrangements that may be contemplated by any agreement entered into by the Public Service Commission and the affected electric public utility relating to any qualifying facility as defined in Section 3 of this act.

SECTION 13. This act shall take effect and be in force from and after its passage.

Mississippi Legislature

2013 Regular Session

House Bill 1161

Description: Petroleum Products Inspection Laws of MS; extend repealer on definitions and penalties under.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2013

Chapter Number: 372

History of Actions:

1	01/21	(H)	Referred To Energy
2	02/05	(H)	Title Suff Do Pass
3	02/07	(H)	Passed {Vote}
4	02/08	(H)	Transmitted To Senate
5	02/15	(S)	Referred To Agriculture; Energy
6	02/28	(S)	DR - TSDP: AG To EN
7	02/28	(S)	Title Suff Do Pass
8	03/07	(S)	Passed {Vote}
9	03/08	(S)	Transmitted To House
10	03/12	(H)	Enrolled Bill Signed
11	03/12	(S)	Enrolled Bill Signed
12	03/20		Approved by Governor

Code Section: A 075-0055-0005, A 075-0055-0037

----- Additional Information -----

House Committee: Energy

Senate Committee: Agriculture, Energy

Principal Author: Formby

Title: AN ACT TO AMEND SECTIONS 75-55-5 AND 75-55-37, MISSISSIPPI CODE OF 1972, WHICH ARE PROVISIONS OF THE PETROLEUM PRODUCTS INSPECTION LAWS OF MISSISSIPPI, TO EXTEND THE DATE OF REPEAL ON DEFINED TERMS AND THE PENALTIES IMPOSED FOR VIOLATIONS FROM JULY 1, 2013, TO JULY 1, 2016; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Energy

By: Representative Formby

House Bill 1161

(As Sent to Governor)

AN ACT TO AMEND SECTIONS 75-55-5 AND 75-55-37, MISSISSIPPI CODE OF 1972, WHICH ARE PROVISIONS OF THE PETROLEUM PRODUCTS INSPECTION LAWS OF MISSISSIPPI, TO EXTEND THE DATE OF REPEAL ON DEFINED TERMS AND THE PENALTIES IMPOSED FOR VIOLATIONS FROM JULY 1, 2013, TO JULY 1, 2016; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 75-55-5, Mississippi Code of 1972, is amended as follows:

75-55-5. (1) The words, terms and phrases as used in this chapter shall have the following meanings, unless the context requires otherwise:

(a) The term "commissioner" means the Commissioner of the Mississippi Department of Agriculture and Commerce, or his agents and employees.

(b) The term "State Chemist" means the Director of the Mississippi State Chemical Laboratory, or his agents and employees.

(c) The term "ASTM" means an international voluntary consensus standards organization formed for the development of standards on characteristics and performance of materials, products, systems, and services, and the promotion of related knowledge.

(d) The term "person" shall include any individual, firm, copartnership, joint venture, association, corporation, estate, trust or any other group or combination acting as a unit, and the plural as well as the singular number, unless the intention to give a more limited meaning is disclosed by the context.

(e) The term "illuminating oil" shall include coal oil, kerosene or other petroleum products used for illuminating purposes.

(f) The term "lubricating oil" means all petroleum-based oils or synthetic lubricants intended for use in the crankcase of an internal combustion engine, either spark ignition or diesel type. The purpose of the lubricating oil is to reduce friction between two (2) solid surfaces moving relative to one another.

(g) The term "gasoline pump" shall include pumps, meters and all measuring devices used for measuring gasoline and all oxygenated blended fuels; the term "diesel fuel pump" shall include pumps, meters and all measuring devices used for measuring diesel fuel; the term "kerosene pump" shall include pumps, meters and all measuring devices used for measuring kerosene; the term "liquefied compressed gas pump" shall include pumps, meters and all measuring devices used for measuring liquefied compressed gas.

(h) The term "gasoline" shall include* * * (i) all products commonly or commercially known or sold as gasoline (excluding casing head and absorption or natural gasoline) regardless of their classification or uses; and* * * (ii) a volatile mixture of liquid hydrocarbons, generally containing small amounts of additives, suitable for use as a fuel in spark ignition, internal combustion engines.

(i) The term "commercial gasoline" shall mean a liquid suitable for use as a fuel in spark ignition combustion engines, and shall be free of undissolved water, suspended matter and of any harmful ingredient or component and which, in addition, meets the following test requirements as set out in ASTM D4814, and it shall be the intent of this chapter that the state specifications may be kept current with ASTM D4814 as illustrated below:

(i) Corrosion ASTM D130. A clean copper strip shall not show more than extremely slight discoloration equivalent to ASTM Strip No. 1, when submerged in the gasoline for three (3) hours at one hundred twenty-two (122°) degrees Fahrenheit, as determined by ASTM D130.

(ii) Distillation range. For each month the distillation range shall be that specified by the vapor pressure class requirement for that month. Distillation temperature limits shall be consistent with the corresponding vapor pressure class during the months affected by federal or state regulation which restrict vapor pressure. If the vapor pressure limit is between two (2) classes, the distillation temperature

limits of the least restrictive class shall be acceptable. The method of test shall be ASTM D86.

(iii) Residue. The residue, after evaporation, shall not exceed two percent (2%), as determined by ASTM D86.

(iv) Gum test. The gum shall not exceed five (5) milligrams per one hundred (100) milliliters, after the extraction of the residue with a-heptane, as determined by ASTM D381.

(v) Sulphur. The sulphur content shall not exceed ten one-hundredths percent (0.10%) for unleaded gasoline or fifteen one-hundredths percent (0.15%) for leaded gasoline, as determined by ASTM D2622 or D4045.

(vi) Vapor pressure. The vapor pressure during the months of July and August shall not exceed ten (10) pounds per square inch at one hundred (100°) degrees Fahrenheit, and during the months of November, December, January, February and March shall not exceed thirteen and one-half (13-1/2) pounds per square inch at one hundred (100°) degrees Fahrenheit.

The vapor pressure during the remaining months of the year shall not exceed eleven and five-tenths (11.5) pounds per square inch at one hundred (100°) degrees Fahrenheit. The method of determination shall be ASTM D4953. Federal or state regulation restricting vapor pressure to lower levels shall preempt these standards during the applicable months.

(vii) Vapor liquid equilibrium. A maximum value of twenty (20) for the vapor liquid equilibrium test during the months July and August shall be obtained at a temperature of one hundred thirty-three (133°) degrees Fahrenheit; for the months of November, December, January, February and March it shall be obtained at a temperature of one hundred sixteen (116°) degrees Fahrenheit; for the other months of the year it shall be obtained at one hundred twenty-four (124°) degrees Fahrenheit. The method of determination shall be ASTM D2533 or ASTM D4814, appendix X2.

(viii) Lead specifications. The unleaded gasoline shall contain less than five hundredths (0.05) gram of lead per gallon, and the leaded gasoline shall contain a minimum of five hundredths (0.05) gram of lead and less than four and two-tenths (4.2) grams of lead per gallon. The method of analysis should be ASTM D3237, (Atomic Absorption Spectrometry),

ASTM D2599 (X-ray Spectrometry) or ASTM D2547 (Volumetric Chromate).

(ix) Classification.

1. "Leaded premium grade gasoline" shall have an $(R + M)/2$ octane antiknock index of at least ninety-three (93). The research octane number shall be at least ninety-six (96).

2. "Unleaded premium grade gasoline" shall have an $(R + M)/2$ octane antiknock index of at least ninety-one (91). The research octane number shall be at least ninety-four (94).

3. "Mid-grade unleaded gasoline" shall have an $(R + M)/2$ octane antiknock index of at least eighty-nine (89). The research octane number shall be at least ninety-two (92).

4. "Leaded regular grade gasoline" shall have an $(R + M)/2$ octane antiknock index of at least eighty-nine (89). The research octane number shall be at least ninety (90).

5. "Unleaded regular grade gasoline" shall have an $(R + M)/2$ octane antiknock index of at least eighty-seven (87). The research octane number shall be at least ninety (90), and the motor octane number shall be at least eighty-two (82).

6. "Third-grade gasoline" shall have an $(R + M)/2$ octane antiknock of not more than eighty-seven (87).

The methods of octane determination shall be ASTM D2699 for the research octane number (R) and ASTM D2700 for the motor octane number (M), or ASTM D2885 for both the research octane number and the motor octane number. The $(R + M)/2$ octane antiknock index shall be the average of the research and motor octane numbers. All retail pumps or delivery devices shall be labeled with the appropriate $(R + M)/2$ octane antiknock index in accordance with the Federal Trade Commission Octane Posting and Certification Regulation 306. No commercial gasoline shall be colored mahogany.

(j) The term "oxygenated fuel" means a liquid fuel which is a homogeneous blend of hydrocarbons and oxygenates. The term "oxygenate" means an oxygen containing ashless organic compound which may be used as a fuel supplement or additive and includes alcohols and ethers. "Gasoline-oxygenate blend" means a blend consisting primarily of gasoline and a substantial amount of one or more oxygenates. This definition includes, but is not limited to, the following designations:

(i) "Gasohol" meaning any motor fuel containing a nominal ten (10) volume percent anhydrous denatured alcohol and ninety (90) volume percent unleaded gasoline, regardless of other name, label or designation.

(ii) "Leaded gasohol" meaning any motor fuel containing a nominal ten (10) volume percent anhydrous, denatured ethanol and ninety (90) volume percent leaded gasoline, regardless of other name, label or designation.

(iii) Any gasoline-oxygenate blend which meets the United States Environmental Protection Agency's "substantially similar" rule, Section 211(f)(1) of the Clean Air Act, 42 USCS 7545(f)(1).

(iv) Any gasoline-oxygenate blend for which there is an existing Clean Air Act waiver issued by the United States Environmental Protection Agency.

(k) "Alcohol blended fuel" means gasohol or leaded gasohol.

(l) "Anhydrous, denatured ethyl alcohol (ethanol)" means normal two hundred (200) proof ethanol to which has been added a maximum of five (5) volumes of approved denaturant(s) to one hundred (100) volumes of ethanol and containing not more than one and twenty-five hundredths percent (1.25%) water by weight as determined by ASTM E203.

(m) "Approved denaturant(s)" means materials used for denaturing ethyl alcohol for use as a motor fuel which have been approved by the United States Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, and both the State Chemist and the Commissioner of Agriculture and Commerce. Gasoline-oxygenate blends shall meet the specifications set forth in the most recent edition of the Annual Book of ASTM standards and supplements thereto, and revisions thereof, except where amended or modified by the Commissioner and State Chemist.

(n) The term "oil" as used in this chapter shall include diesel fuel, kerosene, fuel oil, distillate, gas oil, tractor fuel or any other product other than gasoline, as defined in this chapter, which is usable as fuel in an internal combustion engine, and any product which, on distillation in accordance with the method of test of the American Society for Testing and Materials shows not more than ten percent (10%) recovered when the thermometer shows two hundred sixty-

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one (261°) degrees Fahrenheit; and not more than ninety-five percent (95%) recovered when the thermometer shows four hundred sixty-five (465°) degrees Fahrenheit or more; provided that nothing in this paragraph shall be construed to include oils received or sold as lubricants when such oils cannot be used as a fuel in internal combustion engines.

(o) "Diesel fuel" is any petroleum product intended for use or offered for sale as a fuel for engines in which the fuel is injected into the combustion chamber and ignited by pressure without the presence of an electric spark.

Specifications: The fuel oils herein specified shall be hydrocarbon oils free from acids, grit and fibrous or other foreign material. Three (3) grades of such oils are specified and these shall conform to the detailed requirements in the current American Society for Testing and Materials Specifications for Diesel Fuel Oils (ASTM D975), except for the sulphur content of Grade 2-D. All tests shall be in accordance with the applicable American Society for Testing and Materials method as set forth in the current ASTM Designation D975. Diesel fuel requirements are listed below:

	Grade 1-D	Grade 2-D	Grade 4-D
Flash point, degrees F. Min. 100	Min. 100	Min. 125	Min. 130
D93			
Water & sediment,			
% by volume, D1796	Max. 0.05	Max. 0.05	Max. 0.5
Carbon residue on 10%			
residium, % D524	Max. 0.15	Max. 0.35	_____
Ash, % by weight, D482	Max. 0.01	Max. 0.01	Max. 0.1
Distillation, 90% point,			
degrees F., D86	_____	Min. 540	_____
	Max. 550	Max. 640	_____
Viscosity @ 100 degrees F.			
kinematic-centistokes			
D445	Min. 1.3	Min. 2.0	Min. 5.5
or	Max. 2.4	Max. 4.1	Max. 24.0
Viscosity @ 100 degrees F.			
Saybolt Universal Sec.	_____	Min. 32.6	Min. 45
	Max. 34.4	Max. 40.1	Max. 125

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Sulphur, % by weight, D129	Max. 0.5	Max. 1.0	Max. 2.0
Copper strip corrosion, Max. No. 3	Max. No. 3	_____	
D130			
Cetane number, D613 or	Min. 40	Min. 40	Min. 30
D976			

(p) The word "kerosene" shall include lamp oil, illuminating oil and coal oil which shall conform to the detailed requirements set forth in the current American Society for Testing and Materials Specification for Kerosene (ASTM D3699). All tests shall be in accordance with the applicable American Society for Testing and Material Methods as set forth in ASTM D3699. The detailed requirements are listed below:

(i) The oil shall be free of water and suspended matter.

(ii) The color shall not be darker than number plus sixteen (16) on the Saybolt scale, as determined by ASTM D156.

(iii) The flash point shall, by ASTM D56, not be lower than one hundred (100°) degrees Fahrenheit when determined in Tagliabue closed type tester, as determined by ASTM D56.

(iv) The sulphur content shall not exceed four one-hundredths percent (0.04%) for No. 1-K kerosene and thirty one-hundredths percent (0.30%) for No. 2-K kerosene. The method of determination shall be ASTM D1266. No. 1-K kerosene is a special low-sulphur grade kerosene suitable for use in nonflue-connected kerosene burner appliances and in wick-fed illuminating lamps. No. 2-K kerosene is suitable for use in flue-connected burner appliances and in wick-fed illuminating lamps.

(v) The distillation ten percent (10%) point shall not be higher than four hundred one (401°) degrees Fahrenheit, as determined by ASTM D86.

(vi) The distillation end point shall not be higher than five hundred seventy-two (572°) degrees Fahrenheit, as determined by ASTM D86.

(vii) The oil shall not show a cloud point at five (5°) degrees Fahrenheit, as determined by ASTM D2500.

(viii) The oil shall burn freely and steadily for sixteen (16) hours, as determined by ASTM D187.

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(ix) The gravity shall not be less than degrees API 41, as determined by ASTM D1298.

(x) The corrosion test results shall be No. 1 Maximum in a three-hour at two hundred twelve (212°) degrees Fahrenheit test, as determined by ASTM D130.

(q) Racing gasoline means any gasoline which is sold for racing purposes. Racing gasoline may be sold from retail dispensing equipment under the following conditions:

(i) The product brand name and octane number shall be registered with the Commissioner of Agriculture and Commerce and the State Chemist.

(ii) The manufacturer shall forward a list of marketers selling these product(s) and the product(s) being sold by each marketer.

(iii) Marketers shall register their retail outlets by location and provide a list of the product(s) sold for each retail outlet.

(iv) The dispensing equipment shall contain a conspicuous sign stating that the fuel is racing gasoline. The dispensing equipment shall not contain any kind of representation indicating that the product is suitable for vehicles other than for racing.

(v) The dispensing equipment shall be dedicated to and isolated from any other motor fuel dispensing equipment in a manner that a vehicle cannot access both the commercial gasoline and the racing gasoline at the same time.

(vi) Any violation shall result in revocation of the approval to market and/or confiscation of the product.

(vii) The Commissioner of Agriculture and Commerce (the "commissioner") and the State Chemist are hereby given authority to change the specifications set forth in this section to comply with the currently recommended ASTM or federally required specifications.

(2) This section shall stand repealed on July 1, 2016.

SECTION 2. Section 75-55-37, Mississippi Code of 1972, is amended as follows:

75-55-37. (1) The commissioner or his duly appointed representatives shall have the right to request an inspection of any pump, truck, or other equipment, and if upon such

inspection any such pump, truck, or other equipment is found to be inaccurate to the extent that a test thereof shows a deficiency of more than twenty-five (25) cubic inches on a five (5) gallon measurement, or if the right to inspect any such pump, truck, or other equipment is refused or denied the commissioner, or his duly authorized representatives, he or they shall have the right to immediately close and lock said pump and other equipment or to seal same with the commissioner's seal. If such pump, truck, or other equipment is found to be inaccurate but the deficiency is twenty-five (25) cubic inches or less on a five (5) gallon measurement, then the commissioner or his representative shall give the owner or operator thereof forty-eight (48) hours within which to correct such inaccuracy and if such person fails or refuses to correct same within said period then the commissioner or his representative shall have the right to lock and seal such pump or other equipment in the same manner as provided above.

It shall be prima facie presumed upon any refusal to allow the right to inspect that the pump, truck, or other equipment sought to be inspected is inaccurate to the extent set forth above, or is operating in violation of this chapter. When any such pump or other equipment is locked or sealed, it may not be unlocked or the seal thereon broken except in the presence of a mechanic or other person called for the purpose of repairing the inaccuracy in the machinery of such pump or other equipment, and such inaccuracy shall be immediately thereafter repaired, and the pump or other equipment properly regulated. The commissioner may, in his discretion, require an affidavit from the mechanic repairing such pump or other equipment, or any other proof which he may deem advisable to the effect that said pump was unlocked or the seal thereon broken in the presence of such mechanic, and that the inaccuracies therein were thereupon completely repaired or regulated.

When a state or factory seal is broken on the measuring adjustment device on a retail pump, it shall be the duty of the station operator to notify the commissioner by United States mail, within twenty-four (24) hours, after the breaking of said seal. After the commissioner has received written notice as herein provided and he or his agent has resealed the measuring adjustment device on the pump or pumps at this station, it shall be unlawful for the owner or operator of the station or any of his employees to break a state or factory seal on the measuring adjustment device on any pump at the

station during the ensuing ninety (90) days without the prior approval of the commissioner or his agent.

The State of Mississippi shall have a lien on all pumps, trucks, and other equipment used by any distributor, or other person, in the operation of his business for any tax or penalty due the State of Mississippi because of any violation of this chapter. Such lien shall be paramount to any and all private liens and all the provisions set out in Chapter 7 of Title 85 of the Mississippi Code of 1972, shall be applicable herein for the purpose of securing the enforcement of said lien, and particularly the right to secure the issuance of a writ of summons and seizure and proceedings had and done after the issuance of said writ shall be applicable. Provided, however, that the commissioner shall not be required to give any bond in any such case.

Any person or officer, agent or employee thereof who shall violate any provision of this chapter shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine not exceeding One Hundred Dollars (\$100.00) for the first offense and not less than One Hundred Dollars (\$100.00) nor more than Two Hundred Dollars (\$200.00) for each subsequent offense or imprisonment in the county jail for a period not to exceed ninety (90) days or both.

(2) If a person who, by himself, by his agent, or as the servant or agent of another person commits a violation of this chapter, the commissioner or his designee may impose any, all or a combination of the following penalties:

(a) A stop sale order for any engine fuel, nonengine fuel, automotive lubricant or any other petroleum product not in compliance with this chapter. A remand of the stop sale order may be issued if the engine fuel, nonengine fuel, automotive lubricant or petroleum product is brought into full compliance with this chapter. The stop sale order may be appealed to the commissioner or his designee within twenty (20) days from the receipt of the order.

(b) A warning letter for violations of this chapter.

(c) A civil penalty of not more than Three Thousand Dollars (\$3,000.00) per violation. A person may request an administrative hearing within thirty (30) days of receipt of the notice of the penalty. The commissioner or his designee shall conduct a hearing after giving reasonable notice to the

person. The decision may be appealed to the Circuit Court of the First Judicial District of Hinds County.

(3) If the person has exhausted his administrative appeals, he shall pay the civil penalty within thirty (30) days after the effective date of the final decision. If the person fails to pay the penalty, the commissioner may bring a civil action in any court of competent jurisdiction to recover the penalty.

(4) The commissioner is authorized to suspend, revoke and/or permanently deny a registration under the Petroleum Products Inspection Law of Mississippi to any person, firm, corporation or other organization determined to be guilty of two (2) or more violations per location, per year, of the Petroleum Products Inspection Law of Mississippi and the rules and regulations in force pursuant thereto.

(5) In lieu of, or in addition to, the penalties provided above, the commissioner and the State Chemist shall have the power to institute and maintain in the name of the state any and all proceedings necessary or appropriate to enforce the provisions of the Petroleum Products Inspection Law of Mississippi and the rules and regulations in force pursuant thereto, in the appropriate circuit, chancery, county or justice court in which venue may lie. The commissioner and the State Chemist may obtain mandatory or prohibitory injunctive relief, whether temporary or permanent, and it shall not be necessary for the state to post a bond or prove that no adequate remedy is available at law.

(6) All penalties assessed by the commissioner under this section shall be deposited in the State General Fund.

(7) This section shall stand repealed on July 1, * * * 2016.

SECTION 3. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

House Bill 1165

Description: Mississippi Auctioneers License Act; extend repealer.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Three/Fifths

Effective date: July 1, 2013

Chapter Number: 415

History of Actions:

- | | | | |
|---|-------|-----|------------------------------------|
| 1 | 01/21 | (H) | Referred To Appropriations |
| 2 | 02/05 | (H) | Title Suff Do Pass |
| 3 | 02/07 | (H) | Passed {Vote} |
| 4 | 02/08 | (H) | Transmitted To Senate |
| 5 | 02/13 | (S) | Referred To Business and Financial |

Institutions

- | | | | |
|----|-------|-----|----------------------|
| 6 | 02/28 | (S) | Title Suff Do Pass |
| 7 | 03/08 | (S) | Passed {Vote} |
| 8 | 03/11 | (S) | Transmitted To House |
| 9 | 03/14 | (H) | Enrolled Bill Signed |
| 10 | 03/14 | (S) | Enrolled Bill Signed |
| 11 | 03/20 | | Approved by Governor |

Code Section: R 073-0004-0001, R 073-0004-0003, R 073-0004-0005, R 073-0004-0007, R 073-0004-0009, R 073-0004-0011, R 073-0004-0013, R 073-0004-0015, R 073-0004-0017, R 073-0004-0019, R 073-0004-0021, RA 073-0004-0023, R 073-0004-0025, RA 073-0004-0027, R 073-0004-0029, R 073-0004-0031, R 073-0004-0033, R 073-0004-0035, R 073-0004-0037, R 073-0004-0039, R 073-0004-0041, R 073-0004-0043, R 073-0004-0045, R 073-0004-0047, R 073-0004-0049, R 073-0004-0051, A 073-0004-0053

----- **Additional Information** -----

House Committee: Appropriations

Senate Committee: Business and Financial Institutions

Principal Author: Formby

Title: AN ACT TO REENACT SECTIONS 73-4-1 THROUGH 73-4-51, MISSISSIPPI CODE OF 1972, WHICH CREATE THE MISSISSIPPI AUCTIONEERS LICENSE ACT; TO AMEND REENACTED SECTIONS 73-4-23, 73-4-27 AND 73-4-35, MISSISSIPPI CODE OF 1972, TO MAKE TECHNICAL CORRECTIONS; TO AMEND SECTION 73-4-53, MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE OF REPEAL ON THE MISSISSIPPI AUCTIONEERS LICENSE ACT; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI HB 1165

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Appropriations

By: Representative Formby

House Bill 1165

(As Sent to Governor)

AN ACT TO REENACT SECTIONS 73-4-1 THROUGH 73-4-51, MISSISSIPPI CODE OF 1972, WHICH CREATE THE MISSISSIPPI AUCTIONEERS LICENSE ACT; TO AMEND REENACTED SECTIONS 73-4-23, 73-4-27 AND 73-4-35, MISSISSIPPI CODE OF 1972, TO MAKE TECHNICAL CORRECTIONS; TO AMEND SECTION 73-4-53, MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE OF REPEAL ON THE MISSISSIPPI AUCTIONEERS LICENSE ACT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 73-4-1, Mississippi Code of 1972, is reenacted as follows:

73-4-1. This chapter shall be known and may be cited as the "Mississippi Auctioneers License Act."

SECTION 2. Section 73-4-3, Mississippi Code of 1972, is reenacted as follows:

73-4-3. For the purposes of this chapter, the following words and phrases shall have the meanings ascribed herein, unless the context otherwise requires:

(a) "Auction" means a sale transaction conducted by means of oral or written exchanges between an auctioneer and the members of his audience, which exchanges consist of a series of invitations for offers for the purchase of goods made by the auctioneer and offers to purchase made by members of his audience and culminate in the acceptance by the auctioneer of the highest or most favorable offer made by a member of the participating audience.

(b) "Auction firm" means any business establishment or other location owned by any entity where goods are sold or advertised to be sold at auction or on any recurring basis.

(c) "Auctioneer" means an individual who is engaged in, or who by advertising or otherwise holds himself out as being available to engage in, the calling for, the recognition of,

and the acceptance of, offers for the purchase of goods or real estate at an auction.

(d) "Commission" means the Mississippi Auctioneer Commission.

(e) "Goods" means any tangible personal property that can be lawfully offered for sale, real estate, property sold pursuant to any will or settlement of any estate, property sold pursuant to any legal foreclosure, automobiles or farm or other heavy equipment.

(f) "Licensee" means any person licensed under this chapter, and, in the case of an auction firm, includes the person required to obtain a license for such auction firm.

(g) "Organization" means a corporation, partnership, trust (specifically a business trust), firm, association, or any other form of business enterprise which is owned by two (2) or more individuals.

(h) "Person" means an organization or an individual.

SECTION 3. Section 73-4-5, Mississippi Code of 1972, is reenacted as follows:

73-4-5. (1) It is unlawful for any person, corporation, limited liability company, partnership or other entity to conduct an auction, provide an auction service, hold himself out as an auctioneer, or advertise his services as an auctioneer in the State of Mississippi without a license issued by the commission under this chapter.

(2) The provisions of this chapter shall not apply to the following transactions:

(a) A sale conducted by order of any United States court pursuant to Title 11 of the United States Code relating to bankruptcy;

(b) A sale conducted by an employee of the United States or the State of Mississippi or its political subdivisions in the course and scope of his employment;

(c) A sale conducted by a charitable or nonprofit organization if the auctioneer receives no compensation;

(d) A sale conducted by an individual of his own property if such individual is not engaged in the business of selling such property as an auctioneer on a recurring basis;

(e) A sale conducted by an individual acting as a receiver, trustee in bankruptcy, guardian, administrator or executor or any such person acting under order of court; by a real estate agent, broker or salesman, who auctions property that he has an exclusive listing agreement on, if done through a silent or written auction not done by public outcry or by a trustee acting under a trust agreement, deed of trust or will;

(f) A foreclosure sale of personal property conducted personally by the mortgagee or other secured party or an employee or agent of such mortgagee or other secured party acting in the course and scope of his employment if the employee or agent is not engaged otherwise in the auction business and if all property for sale in the auction is subject to a security agreement;

(g) A sale conducted by sealed bid;

(h) An auction conducted in a course of study, approved by the Secretary of State, for auctioneers and conducted only for student training purposes;

(i) An auction conducted by a posted stockyard or market agency as defined by the Federal Packers and Stockyard Act, 1921, as amended (7 USCS 181 et seq.);

(j) An auction of livestock conducted by a nonprofit livestock trade association chartered in this state if the auction involves only the sale of the trade association's members' livestock; or

(k) An auction conducted by a charitable or nonprofit organization chartered in this state if the auction involves only the property of the organization's members and the auction is part of a fair that is organized under state, county or municipal authority.

SECTION 4. Section 73-4-7, Mississippi Code of 1972, is reenacted as follows:

73-4-7. (1) The Mississippi Auctioneer Commission is created, and it shall have the authority to make such rules and regulations as are reasonable and necessary for the orderly regulation of the auctioneering profession and the protection of the public, which rules and regulations are not inconsistent with the Mississippi Constitution of 1890 and state laws. The commission shall have the following powers:

(a) The power to set reasonable license fees, to collect and hold such fees and to disburse such fees in any manner not inconsistent with this chapter.

(b) The power to make such rules and regulations as will promote the orderly functioning of the auction profession and ensure the protection of the public.

(c) The power to hire and retain such staff and support personnel as are necessary to conduct business and assure compliance with this chapter.

(d) The power to conduct investigations, hold hearings, subpoena witnesses, make findings of fact and otherwise enforce the disciplinary provisions contained in this chapter.

(2) The Mississippi Auctioneer Commission shall consist of five (5) members, one (1) from each congressional district, who shall be appointed by the Governor. All appointees shall possess the following minimum qualifications:

(a) An appointee shall be a citizen of Mississippi.

(b) An appointee shall have been engaged as an auctioneer for a period of not less than five (5) years immediately preceding his appointment.

(c) An appointee shall be of good reputation, trustworthy and knowledgeable in the auction profession.

An individual may not act as a member of the commission while holding another elected or appointed office in either the state or federal government or while owning a school or other facility to train individuals to be auctioneers.

(3) In order to assure continuity, the Governor shall appoint the initial members of the commission for the following terms:

(a) The member appointed from the First Congressional District shall serve a term of one (1) year;

(b) The member appointed from the Second Congressional District shall serve a term of two (2) years;

(c) The member appointed from the Third Congressional District shall serve a term of three (3) years;

(d) The member appointed from the Fourth Congressional District shall serve a term of four (4) years; and

(e) The member appointed from the Fifth Congressional District shall serve a term of five (5) years.

Subsequent terms shall be for five (5) years, except for interim appointments to fill unexpired terms which shall be only for the unexpired term.

(4) Each member of the commission shall receive a per diem as provided by Section 25-3-69 per meeting and shall be reimbursed for ordinary and necessary expenses incurred in the performance of official duties as provided in Section 25-3-41.

SECTION 5. Section 73-4-9, Mississippi Code of 1972, is reenacted as follows:

73-4-9. The commission shall meet each January at a time and place established by the chairman to conduct an election of officers and such other business as may be appropriate. The commission shall also meet upon the call of the chairman or upon the request of any two (2) members of the commission. The secretary shall provide reasonable notice of the time and place of each meeting to all members.

Three (3) members shall constitute a quorum for the purpose of transacting business. A majority vote of the commission shall be necessary to bind the commission.

SECTION 6. Section 73-4-11, Mississippi Code of 1972, is reenacted as follows:

73-4-11. (1) At the meeting to be held each January, the commission shall elect from its membership a chairman and a vice chairman. Each officer shall serve a term of one (1) year and shall not vacate office until a successor is elected.

(2) The chairman shall preside at all meetings of the commission.

(3) The vice chairman shall act as presiding officer in the absence of the chairman and shall perform such other duties as the chairman may direct.

(4) The commission shall appoint an executive director who shall not be a member of the commission.

(5) The executive director shall:

(a) Notify all members of meetings;

(b) Keep a record of all meetings of the commission, votes taken by the commission and other proceedings, transactions,

communications, official acts and records of the commission; and

(c) Perform such other duties as the chairman directs.

SECTION 7. Section 73-4-13, Mississippi Code of 1972, is reenacted as follows:

73-4-13. The commission is empowered to:

(a) Administer and enforce the provisions of this chapter.

(b) Promulgate such rules and regulations and prescribe such forms as are necessary for the administration and the effective and efficient enforcement of this chapter.

(c) Issue, suspend and revoke licenses in accordance with this chapter.

(d) Provide for the filing and approval of surety bonds as required by this chapter.

(e) Investigate complaints concerning licensees or persons the commission has reason to believe should be licensees, specifically including complaints respecting failure to comply with this chapter or the rules and regulations promulgated as authorized by this chapter and to take appropriate action to address such complaints.

(f) Commence actions, in the name of the State of Mississippi, in an appropriate circuit court in order to force compliance with this chapter or rules and regulations promulgated hereunder by restraining order or injunction.

(g) Hold public hearings on any matters for which a hearing is required under this chapter and to have all powers granted by law for such hearings.

(h) Adopt a seal and, through its secretary, certify copies.

(i) Appoint an executive director and employ all necessary employees and consultants to administer and enforce this chapter.

SECTION 8. Section 73-4-15, Mississippi Code of 1972, is reenacted as follows:

73-4-15. All fees and other monies collected or received by the commission under this chapter shall be deposited into a special fund which is hereby created in the State Treasury,

to be known as the "Mississippi Auctioneer Licensure Fund." Unexpended amounts remaining in such special fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned on amounts in such special funds shall be deposited to the credit of the special fund. All monies in the special fund shall be expended or used exclusively for the purposes of carrying out the provisions of this chapter. All records of such fees received by the commission and deposited in the special fund shall be available for inspection by the State Auditor. Monies from the special fund shall be used to support the commission, upon appropriation by the Legislature.

SECTION 9. Section 73-4-17, Mississippi Code of 1972, is reenacted as follows:

73-4-17. There shall be two (2) classes of auctioneers' licenses, which shall be auctioneer and auction firm. All applicants for a license under this chapter shall possess the following minimum qualifications:

(a) Applicants shall have attained the age of eighteen (18) years by the issuance date of the license.

(b) Applicants shall have obtained at a minimum a high school diploma or G.E.D. equivalent and shall be graduates of an auctioneering school approved by the commission.

(c) Each applicant for a license under this chapter shall demonstrate to the commission that he is of good moral character and worthy of public trust through background information to be provided on his application form and two (2) letters of reference from persons not related to the applicant who have known the applicant at least three (3) years. The commission may require additional information or a personal interview with the applicant to determine if such applicant should be granted a license.

(d) Each applicant for a license under this chapter shall take and successfully complete an examination as prescribed by the commission. The examination shall include questions on ethics, reading comprehension, writing, spelling, elementary arithmetic, elementary principals of land economics, general knowledge of bulk sales law, contracts of sale, agency, leases, brokerage, knowledge of various goods commonly sold at auction, ability to call bids, knowledge of sale preparation and proper sale advertising and sale summary, and knowledge

of the provisions of this chapter and the commission's rules and regulations. There shall be separate examinations for auctioneer and auction firm each based upon relevant subject matter appropriate to the license classification as set forth herein. Examinations shall be administered at least once a year and may be administered quarterly at the commission's discretion provided there are at least twenty-five (25) examinees. The commission shall ensure that the various forms of the test remain secure.

(e) In order to defray the cost of administration of the examinations, applicants for the examination shall pay fees as follows:

(i) Auctioneer..... \$100.00.

(ii) Auction firm..... \$100.00.

(f) Each applicant desiring to sit for the examination for any license required under this chapter shall be required to furnish to the commission at least thirty (30) days prior to the examination evidence of a surety bond in the following minimum amounts:

(i) Auctioneer..... \$10,000.00.

(ii) Auction firm..... \$10,000.00.

(g) In addition to the bond required herein, applicants for the auction firm license shall furnish the commission with all relevant information concerning the premises to be licensed, to include location, whether the premises are owned or leased, and an affidavit that the proposed use of the premises as an auction firm does not violate zoning or any other use restrictions. A separate license shall be required for each business location of the owner of multiple auction galleries.

(h) Except as provided in Section 33-1-39, all licenses granted pursuant to this chapter shall be for a term of two (2) years and shall expire on the first day of March at the end of such two-year term. The biennial license fees shall be set from time to time by the commission with a maximum fee of Two Hundred Dollars (\$200.00). License fees shall not be prorated for any portion of a year but shall be paid for the entire biennial period regardless of the date of the application. Individuals failing to submit license renewal fees on or before March 1 of the year for renewal shall be required to

successfully pass the next administration of the examination in order to renew a license.

(i) Each application or filing made under this section shall include the social security number(s) of the applicant in accordance with Section 93-11-64, Mississippi Code of 1972.

(j) A licensee shall keep such books, accounts and records as will enable the commission to determine whether such licensee is in compliance with the provisions of this chapter, and rules and regulations made pursuant thereto, and any other law, rule and regulation applicable to the conduct of such business. The commission and its employees or representatives shall have the right to enter and make inspections of any place where the auction business is carried on and inspect and copy any record pertaining to the auction business under this chapter. The commission may conduct or cause to be conducted an examination or audit of the books and records of any licensee at any time the commission deems proper, the cost of the examination or audit to be borne by the licensee. The refusal of access to the books and records shall be cause for the revocation of its license.

SECTION 10. Section 73-4-19, Mississippi Code of 1972, is reenacted as follows:

73-4-19. (1) The commission may, upon its own motion or upon the complaint in writing of any person, provided the complaint and any evidence presented with it establishes a prima facie case, hold a hearing and investigate the actions of any auctioneer or auction firm, or any person who holds himself out as an auctioneer or auction firm.

(2) Any person desiring to make a complaint against a licensee shall submit a complaint to the commission in verified form as prescribed by the commission. Upon receipt of a properly verified complaint, the commission shall send a copy of the complaint to the affected licensee by certified mail, and the licensee shall make answer to the complaint in writing within twenty (20) days after receipt of the complaint. The licensee shall mail a copy of his response to the commission and the complainant. Upon receipt of the licensee's response or lapse of twenty (20) days, the commission shall make investigation of the underlying allegations of the complaint, and upon a finding of probable cause that a violation of this chapter has occurred, the commission shall order a hearing

for the licensee to appear and show cause why he should not be disciplined for a violation of this chapter.

(3) (a) All hearings held pursuant to this chapter shall be held at the offices of the commission. The commission, for good cause shown, may order that a hearing be held in another location convenient to all parties.

(b) The commission shall give the complainant and the affected licensee twenty (20) days' notice of any hearing upon a complaint. Such notice shall be by United States certified mail.

(c) Any party appearing before the commission may be accompanied by counsel.

(d) The commission or its executive director shall have the right to subpoena witnesses and documents as they deem necessary for the proper conduct of the hearing. The commission shall not entertain a motion for a continuance for failure of a witness to appear unless such witness shall have been duly subpoenaed.

(e) (i) Before commencing a hearing, the chairman of the commission shall determine if all parties are present and ready to proceed. If the complainant fails to attend a hearing without good cause shown, the complaint shall be dismissed summarily and all fees and expenses of convening the hearing shall be assessed to, and paid by, the complainant. If any affected licensee fails to appear for a hearing without good cause shown, such licensee shall be presumed to have waived his right to appear and be heard.

(ii) Upon the chairman's determination that all parties are ready to proceed, the chairman shall call the hearing to order and the complainant and the licensee may give opening statements. At the request of any party, the chairman shall order the sequestration of nonparty witnesses. The complainant shall then present his complaint through sworn testimony and the production of physical evidence. The licensee, any counsel and any member of the commission may ask questions of witnesses.

(iii) The licensee shall then present his case in rebuttal with equal right of cross-examination of the parties. At the completion of the evidence, all parties may give closing statements.

(iv) At the conclusion of testimony and argument, the commission may go into closed session for deliberation.

(v) At the conclusion of deliberations, the commission may announce the commission's decision in an open session, and shall notify the parties of its decision by mail within ten (10) days after the commission reaches its decision.

(4) Service of notice to the party shall be considered to have been given if the notice was personally served on the licensee, applicant or complainant or if the notice was sent by certified United States mail to the licensee, applicant or complainant to that party's last known address of record with the board.

(5) No person whose license has been revoked hereunder may apply for a new license for a period of at least five (5) years. A person whose license has been denied, suspended or revoked may not apply in that person's name or in any other manner within the period during which the order of denial, suspension or revocation is in effect, and no firm, partnership or corporation in which any person whose license has been denied, suspended or revoked has a substantial interest or exercises management responsibility or control may be licensed during the period. The procedure for the reissuance of a license that is for being out of compliance with an order for support, as defined in Section 93-11-153, shall be governed by Section 93-11-157 or 93-11-163, as the case may be.

(6) Any civil or monetary penalty, fine or other costs imposed by the commission under this chapter shall become due and payable within the time allowed by the commission for payment thereof. Failure of the licensee or party to pay all penalties or fines so assessed as ordered by the commission shall, unless an appeal is taken and perfected within the time and in the manner provided in this chapter, result in an automatic revocation of such licensee's license. In addition, if any amounts assessed against a party by final order of the commission become otherwise uncollectible or payment is in default, and if all the right to appeal has passed, the order of the commission containing the amount of money assessed by the commission may be filed with the appropriate clerk of the court in the county in which the licensee or party is located. The order shall constitute a judgment and the filing of such final order shall have the full force and effect of a judgment duly docketed in the office of such clerk and may be enforced

in the same manner and with the same effect as that provided by law in respect to executions issued against property upon judgments of a court of record.

(7) The commission may also assess and levy upon any licensee or applicant for licensure the costs incurred or expended by the commission in the investigation and prosecution of any licensure or disciplinary action, including, but not limited to, the cost of process service, court reports, expert witness, investigators and attorney fees.

(8) The commission may, upon its own motion, summarily suspend a license when the interest, health, safety or welfare of the public is at risk, such as in the event of a potential loss of consigned items or potential loss of funds. If the commission suspends summarily a license under the provisions of this subsection, a hearing must begin within twenty (20) days after such suspension begins, unless continued at the request of the licensee.

(9) Any person aggrieved by an action of the commission may file an appeal of such action in the Circuit Court of Hinds County. Any appeal must be accompanied by an attested copy of the record of the hearing before the commission. An appeal must, however, be filed with the Chancery Court of Hinds County within thirty (30) days immediately following the date of the commission's decision, unless the court, for good cause shown, extends the time. Appeals may be taken to the Mississippi Supreme Court as provided by law from any final judgment of the chancery court. If the board appeals from any judgment of the chancery court, no bond shall be required of it in order to perfect its appeal. Any actions taken by the commission in suspending a license when required by Section 93-11-157 or 93-11-163 are not actions from which an appeal may be taken under this section. Any appeal of a license suspension that is required by Section 93-11-157 or 93-11-163 shall be taken in accordance with the appeal procedure specified in Section 93-11-157 or 93-11-163, as the case may be, rather than the procedure specified in this section.

(10) If any licensee is indicted in this or any other state for forgery, embezzlement, obtaining money under false pretenses, extortion, criminal conspiracy to defraud or other offense, and a certified copy of the indictment is filed with the commission or other proper evidence is given to it, the

commission may, in its discretion, suspend the license issued to the licensee pending trial of the charges.

(11) If the revocation or suspension of a license issued to any member of a partnership, or to any officer of an association, corporation or organization to whom an auction license has been issued, the license issued to the partnership, association, corporation or organization shall be revoked by the commission unless, within a time fixed by the commission, the connection of the member of the partnership is severed and his interest in the partnership and his share in its activities brought to an end, or the officer of the association, corporation or organization is discharged and has no further participation in its activities.

(12) Nothing in this section shall be deemed as an exclusive remedy or prevent or proscribe any person's right to petition a court of law or equity for redress of a grievance against a licensee or any other entity.

SECTION 11. Section 73-4-21, Mississippi Code of 1972, is reenacted as follows:

73-4-21. (1) Any person who has practiced the auctioneering profession in this state and has been a resident of the State of Mississippi for at least two (2) years before July 1, 1995, may apply for an auctioneer's license hereunder without taking the examination as set forth in Section 73-4-17. The requirements for such an application are as follows:

(a) Submit an application as provided in this chapter.

(b) Submit an affidavit with the application that such applicant has been a practicing auctioneer and a resident of the State of Mississippi for at least two (2) years before July 1, 1995, and that such applicant has actually called bids in at least three (3) sales in the past one (1) year.

(c) Tender with the application the license fee set by the commission.

(d) Tender proof of financial responsibility in the form of a surety bond in the sum of Ten Thousand Dollars (\$10,000.00).

(2) If, upon verification of the information contained in the application, the individual is found to be otherwise qualified, the commission shall issue the applicant a license without examination.

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SECTION 12. Section 73-4-23, Mississippi Code of 1972, is reenacted and amended as follows:

73-4-23. Any auctioneer who is licensed in a state that (a) has requirements equal to the requirements of this chapter, (b) has requirements that have been approved by the commission, after a review of such state's licensing law, and (c) has entered into a reciprocal licensing agreement with the State of Mississippi through such state's regulatory authority over auctioneering, may apply for and be granted a license without examination. Applicants for a license through reciprocity shall furnish the commission by application the same information as that required of resident applicants. In addition to the*
* * biennial license fee, nonresidents shall pay to the commission a fee of Two Hundred Fifty Dollars (\$250.00). A nonresident auctioneer shall furnish to the commission a surety bond, obligated to the State of Mississippi, in the amount of Ten Thousand Dollars (\$10,000.00) prior to being issued a license. The bond shall be executed by the person seeking the license as principal and by a corporate surety, licensed to do business in this state, as surety. The bond shall otherwise be in accordance with the provisions of this chapter.

SECTION 13. Section 73-4-25, Mississippi Code of 1972, is reenacted as follows:

73-4-25. (1) The commission may refuse to issue or renew a license, place a licensee on probation or administrative supervision, suspend or revoke any license, or may reprimand or take any other action in relation to a license, including the imposition of a fine not to exceed Five Thousand Dollars (\$5,000.00) for each violation upon a licensee, or applicant for licensure, under this chapter for any of the following reasons:

(a) Knowingly filing or causing to be filed a false application.

(b) Failure to enter into a written contract with a seller or consignor prior to placing or permitting advertising for an auction sale to be placed.

(c) Failure by the licensee to give the seller or consignor a signed receipt for items received for sale at auction, either by item or lot number at the time the goods

are received, unless the goods are to remain in the possession of the seller or consignor.

(d) Failure to give the seller or consignor a statement or lot description, selling price, purchaser's identity and the net proceeds due to the seller or consignor.

(e) Failure to place funds received from an auction sale in an escrow or trust account, and failure to make timely settlement on escrowed funds. Absent a written agreement to the contrary, five (5) business days shall be deemed timely for settlement on personal property.

(f) Permitting an unlicensed auctioneer to call for bids in an auction sale.

(g) Having been convicted of or pled guilty to a felony in the courts of this state or any other state, territory or country. Conviction, as used in this paragraph, shall include a deferred conviction, deferred prosecution, deferred sentence, finding or verdict of guilt, an admission of guilt or a plea of nolo contendere.

(h) Any course of intentional, willful or wanton conduct by a licensee or such licensee's employees which misleads or creates a false impression among the seller, buyer, bidders and the auctioneer in the advertising, conducting and closing of an auction sale.

(i) A continued and flagrant course of misrepresentation or making false promises, either by the licensee, an employee of the licensee, or by someone acting on behalf of and with the licensee's consent.

(j) Any failure to account for or to pay over within a reasonable time funds belonging to another which have come into the licensee's possession through an auction sale.

(k) Any false, misleading or untruthful advertising.

(l) Any act of conduct in connection with a sales transaction which demonstrates bad faith or dishonesty.

(m) Knowingly using false bidders, cappers or pullers, or knowingly making a material false statement or representation.

(n) Commingling the funds or property of a client with the licensee's own or failing to maintain and deposit in a trust or escrow account in an insured bank or savings and loan

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association located in Mississippi funds received for another person through sale at auction.

(o) Failure to give full cooperation to the commission and/or its designees, agents or other representatives in the performance of official duties of the commission. Such failure to cooperate includes, but is not limited to:

(i) Failure to properly make any disclosures or to provide documents or information required by this chapter or by the commission;

(ii) Not furnishing, in writing, a full and complete explanation covering the matter contained in a complaint filed with the commission;

(iii) Failure, without good cause, to cooperate with any request by the board to appear before it;

(iv) Not providing access, as directed by the commission, for its authorized agents or representatives seeking to perform reviews, audits or inspections at facilities or places utilized by the license holder in the auction business;

(v) Failure to provide information within the specified time allotted and as required by the board and/or its representatives or designees;

(vi) Failure to cooperate with the board or its designees or representatives in the investigation of any alleged misconduct or willfully interfering with a board investigation.

(p) A demonstrated lack of financial responsibility.

(q) Having had a license for the practice of auctioneering or the auction business suspended or revoked in any jurisdiction, having voluntarily surrendered a license in any jurisdiction, having been placed on probation in any jurisdiction, having been placed under disciplinary order(s) or other restriction in any manner for auctioneering or the auction business (a certified copy of the order of suspension, revocation, probation or disciplinary action shall be prima facie evidence of such action).

(r) Any violation of this chapter or any violation of a rule or regulation duly adopted by the commission.

(2) In addition to the acts specified in subsection (1) of this section, the commission shall be authorized to suspend

the license of any licensee for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a license for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a license suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a license suspended for that purpose, shall be governed by Section 93-11-157 or 93-11-163. If there is any conflict between any provision of Section 93-11-157 or 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

SECTION 14. Section 73-4-27, Mississippi Code of 1972, is reenacted and amended as follows:

73-4-27. (1) No person or party who is not otherwise exempt from licensure under Section 73-34-5 shall sell, or offer to sell, goods or real estate at auction in this state or perform any act for which an auction firm license is required, unless the person or party holds a currently valid license issued by the commission.

(2) Any person who is not otherwise licensed under this chapter and who only provides auction services or holds himself out as providing auction services shall do so only with a valid auction firm license issued under this section.

(3) The commission may grant an auction firm license to an auction firm that is determined to be qualified by the commission. To be eligible for license, the auction firm shall:

(a) Comply with the requirements of Sections 73-4-17 and 73-4-29 and the rules and regulations of the commission; and

(b) * * * Employ a firm manager as required under subsection (5) of this section.

(4) An application submitted under this section for an auction firm license shall list the names of all of the owners, directors, partners or members of the applicant, as applicable.

(5) An auction firm shall designate a firm manager. The firm manager shall have sufficient authority in the operation of the auction firm to ensure compliance with this chapter and rules and regulations of the commission. If the firm manager does not have a current license issued under this chapter, the

firm manager must become licensed under this chapter before the commission may issue a license under this section to the auction firm.

(6) An auction firm license issued under this section immediately shall terminate if any of the following occur:

(a) The auction firm ceases to operate as a corporation.

(b) The auction firm changes ownership or there is any change in ownership.

(c) If the auction firm is a partnership, the firm changes the number of partners in the partnership or changes the partners comprising the partnership.

(d) The auction firm changes the firm manager.

(e) The auction firm changes the name under which the firm conducts business.

(f) The auction firm changes its permanent business location.

(7) If the applicant for a firm license maintains more than one (1) place of business within the state, the applicant shall apply for and obtain an additional firm license for each branch office.

(8) A firm license shall automatically be suspended if no licensed auctioneer is engaged in business therein. Such license may be reinstated by the commission for the unexpired term upon proof that a duly licensed auctioneer has been affiliated with the firm.

(9) Any person in this state who for a fee is in the business of managing auctions to the extent such person is responsible for the advertising, consignments, promotion and/or distribution of funds must hold a valid firm license.

(10) In addition to the other requirements contained elsewhere in this chapter, the holder of an auction firm license shall comply with the following:

(a) Enter into a written contract with a licensed auctioneer to call bids prior to the start of any auction sale. A copy of such contract shall be maintained on the premises and available for inspection by the commission.

(b) The firm license and the license of its manager shall be conspicuously posted at the firm location.

(c) Maintain complete records of each sale held at the licensed premises which shall include, but shall not be limited to, consignment receipts, bidder registrations, final settlements with consignors and any other documents relevant to the conduct of the sale. These records shall be maintained for a period of one (1) year from the date of the sale.

(d) Maintain a file on all current and past employees of the auction firm for the previous year. Such file should contain the employee's name, last known address and social security number.

(e) Assume responsibility for all checks, drafts and other negotiable instruments tendered by buyers in payment for goods sold through the auction firm.

(f) Deposit all proceeds from auction sales into the licensee's escrow account and make all disbursements from such escrow account.

(g) The licensee shall make all of his records pertaining to the auction firm available to a member or employee of the commission for inspection upon demand.

SECTION 15. Section 73-4-29, Mississippi Code of 1972, is reenacted as follows:

73-4-29. (1) Every person who applies for an auctioneer's license, as a condition to the granting and the retention thereof, shall file or have on file with the commission, a bond in the amount of Ten Thousand Dollars (\$10,000.00).

(2) Every person or persons who apply for an auction firm license, as a condition to the granting and the retention thereof, shall file or have on file with the commission, a bond in the amount of Ten Thousand Dollars (\$10,000.00).

(3) (a) Factory-built homes as defined by Section 75-49-3, because of the manner of their construction, assembly and use and that of their systems, components and appliances (including heating, plumbing and electrical systems), like other finished products having concealed vital parts, may present hazards to the health, life and safety of persons and to the safety of property unless properly inspected prior to sale and properly anchored and blocked at the homesite after the sale so as to provide reasonable safety and protection to their owners and users. In order to insure that these homes are properly anchored and blocked at the homesite in accordance

with the rules, regulations and procedures promulgated by the State Commissioner of Insurance pursuant to his rule-making power contained in Section 75-49-5, auctions of these homes shall be restricted to factory-built housing dealers licensed pursuant to Section 75-49-9 and subject to the penalties of Section 75-49-19, except as otherwise provided in paragraph (b) .

(b) An auctioneer licensed under this chapter may auction a factory-built home without obtaining a license pursuant to Section 75-49-9, if the auction is not for the sole purpose of disposing of factory-built homes and if the disposal of the factory-built home is incidental to, and a part of, an entire estate or liquidation auction. The number of such homes that may be auctioned pursuant to this paragraph is limited to three (3) being offered for sale in one (1) auction or event.

SECTION 16. Section 73-4-31, Mississippi Code of 1972, is reenacted as follows:

73-4-31. (1) The State of Mississippi shall be the obligee under any bond under this chapter.

(2) Such bond shall be:

(a) Executed by the person seeking the license as principal and by a corporate surety, licensed to do business in this state as a surety;

(b) In such form and containing such terms and conditions as the commission prescribes;

(c) Conditioned upon the faithful performance of all obligations of a licensee under this chapter and the rules and regulations promulgated hereunder, including the obligation to account for and pay over monies and proceeds to persons who are entitled to them; and

(d) Effective from the date of its filing with the commission, such bond shall not be affected by the expiration of the license period and shall continue in full force and effect until cancelled, provided that the total and aggregate liability of the surety on a bond shall be limited to the amount specified in the bond and the continuous nature of the bond shall in no way be construed as allowing the liability of the surety under a bond to accumulate for each successive license period during which the bond is in force.

(3) (a) A licensee may not cancel a bond without the prior written approval of the commission and its approval of a substitute bond so as to provide continuous bonding of the licensee's activities.

(b) The surety on a bond may cancel a bond filed under this chapter only after the expiration of ninety (90) days from the date the surety mails a notice of intent to cancel, by registered or certified mail, return receipt requested, to the commission and to the principal of the bond.

(c) Not later than thirty (30) days prior to the date upon which a bond cancellation becomes effective, the licensee shall give written notice to the commission that a new bond has been obtained so as to provide continuous coverage of the licensee's activities.

SECTION 17. Section 73-4-33, Mississippi Code of 1972, is reenacted as follows:

73-4-33. (1) If any licensee fails, or is alleged to have failed, to meet the obligations under this chapter and the rules and regulations promulgated hereunder, the commission shall hold a hearing and determine whether there has been such a failure, determine those persons who are proven claimants under the bond and, if appropriate, distribute the bond proceeds to the proven claimants.

(2) Actions upon the bond and the right to payment under the bond shall extend solely to the commission, except that if the commission has not initiated action under the bond by scheduling and holding a hearing, by litigation or otherwise, within thirty (30) days of a written request to do so, any claimant may initiate an action in the Circuit Court of Hinds County, Mississippi, to require the commission to take action.

(3) If, after a hearing, the commission determines that proven claims exceed the amount of the bond proceeds, the proceeds shall be prorated among proven claimants in the ratio that the amount of their proven claim bears to the total amount of all proven claims.

(4) The determination of the commission as to the fact and the amount of liability under the bond and the amount distributed to the claimants under the bond shall be binding upon the principal and surety of the bond.

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(5) All hearings held under this section shall be held in accordance with the laws of this state.

(6) The existence of the bond and the bond recovery procedure shall in no way affect or alter any other right or remedy which a person may have under applicable law.

SECTION 18. Section 73-4-35, Mississippi Code of 1972, is reenacted and amended as follows:

73-4-35. (1) In performing the duties of an auctioneer, every auctioneer shall follow all reasonable requests of the owner or consignor of the goods being sold at the auction. Every auctioneer shall perform such auctioneer's duties so that the highest or most favorable offer made by a member of the audience is accepted, and shall otherwise perform such duties in accordance with the highest standards of the auctioneering profession.

(2) (a) Every licensee, within five (5) business days after the sale transaction, shall account to, or provide an accounting for, those persons who own or who are acting as consignor of goods which are the subject of an auction engaged in or conducted by such licensee or upon such licensee's premises.

(b) Every licensee, within five (5) business days after a sale of goods and at closing of the sale, shall pay over, or provide for the paying over of, all monies and proceeds due to the owner or consignor of goods which was the subject of an auction engaged in or conducted by such licensee or upon such licensee's premises.

SECTION 19. Section 73-4-37, Mississippi Code of 1972, is reenacted as follows:

73-4-37. Each licensee shall keep and maintain in a safe place for a period of not less than two (2) years complete and correct records and accounts pertaining to such licensee's licensed activity, including the name and address of the owner or consignor of all goods involved in such activities, a description of such goods, the terms and conditions of the acceptance of such goods and accounts of all monies received and paid out, whether on the licensee's own behalf or as agent, as a result of such activities.

SECTION 20. Section 73-4-39, Mississippi Code of 1972, is reenacted as follows:

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73-4-39. Except with respect to goods sold through an auction firm, no licensee shall sell goods at an auction until the auctioneer or auction firm involved has first entered into a written contract with the owner or consignor of such goods, which contract sets forth the terms and conditions upon which such auctioneer or auction firm accepts the goods for sale. A copy of every written contract shall be retained for a period of two (2) years from the date of the auction.

SECTION 21. Section 73-4-41, Mississippi Code of 1972, is reenacted as follows:

73-4-41. All advertisements of auctions shall disclose:

(a) The auctioneer's name and the name of the auction firm involved; and

(b) Whether the auction is to be absolute or with reserve; and

(c) The auctioneer's or auction firm's auction license number.

SECTION 22. Section 73-4-43, Mississippi Code of 1972, is reenacted as follows:

73-4-43. (1) An individual may not act as an auctioneer without first having obtained and having in effect the license required under this chapter.

(2) Any person, except a licensed auctioneer who shall have become exempt by reason of compliance with the applicable provisions of this chapter, may not operate an auction firm without having obtained and having in effect a license for such auction firm as required under this chapter.

(3) A person who violates the provisions of this section shall be fined, upon conviction, not more than One Thousand Dollars (\$1,000.00).

(4) When the commission or its authorized designee determines that person or party not licensed under this chapter is engaged in or is believed to be engaged in activities for which a license is required under this chapter, the commission or its designee may issue an order requiring that person to desist immediately and refrain from such conduct or activities. The affected person or party may appeal the issuance of the cease and desist order by filing notice of appeal within seven (7) calendar days after service of the order. A hearing must be held within twenty (20) days after

a notice of appeal has been timely filed. Service of the cease and desist order shall be considered to have been given if the notice or order was personally served on the person or party or if the order was mailed by certified United States mail to the person's or party's last known address available to the commission. A person or party who has been issued an order to cease and desist that has become final either through default or administrative proceeding before the commission may not engage in the activity or conduct which is the subject of the order. A cease and desist order issued by the commission shall be enforceable in the courts of competent jurisdiction in this state.

(5) Any person or party that practices, offers to practice, attempts to practice, or holds oneself out to practice as an auctioneer, auction firm, or any other licensee under this chapter without being licensed by the commission shall, in addition to any other penalty provided by law, pay a civil penalty to the commission in an amount not to exceed Five Thousand Dollars (\$5,000.00) for each offense as determined by the commission. The civil penalty shall be paid within sixty (60) calendar days after the effective date of the order imposing the penalty. The order shall constitute a judgment and may be filed and execution had thereon in the same manner from any court of record.

SECTION 23. Section 73-4-45, Mississippi Code of 1972, is reenacted as follows:

73-4-45. Any person who violates any provision of this chapter for which a specific penalty is not provided, upon conviction, shall be fined not more than One Thousand Dollars (\$1,000.00).

SECTION 24. Section 73-4-47, Mississippi Code of 1972, is reenacted as follows:

73-4-47. The commission may maintain an action in the name of the State of Mississippi to enjoin any person from engaging, without a license issued under this chapter or pursuant to an exemption defined in this chapter, in any activity for which a license is required under this chapter.

SECTION 25. Section 73-4-49, Mississippi Code of 1972, is reenacted as follows:

73-4-49. In charging any person in an affidavit, information, or indictment with a violation of conducting, without a license

or pursuant to an exemption of this chapter, any activity for which a license or an exemption therefor is required, it shall be sufficient to charge that the person did, upon a certain day and in certain county, engage in such activity and that such person did not have a license or exemption to do so. No further facts need to be averred concerning the matter.

SECTION 26. Section 73-4-51, Mississippi Code of 1972, is reenacted as follows:

73-4-51. All new programs authorized in this chapter are subject to the availability of funds specifically appropriated therefor by the Legislature.

SECTION 27. Section 73-4-53, Mississippi Code of 1972, is amended as follows:

73-4-53. Sections 73-4-1 through 73-4-51 shall stand repealed from and after July 1, * * * 2016.

SECTION 28. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

House Bill 1174

Description: Retirement; exclude value of maintenance furnished to PERS members after 7-1-13 for retirement purposes.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2013

Chapter Number: 414

History of Actions:

- | | | | |
|----|-------|-----|------------------------------|
| 1 | 01/21 | (H) | Referred To Appropriations |
| 2 | 01/31 | (H) | Title Suff Do Pass Comm Sub |
| 3 | 02/06 | (H) | Committee Substitute Adopted |
| 4 | 02/06 | (H) | Passed {Vote} |
| 5 | 02/08 | (H) | Transmitted To Senate |
| 6 | 02/19 | (S) | Referred To Finance |
| 7 | 03/05 | (S) | Title Suff Do Pass |
| 8 | 03/11 | (S) | Passed {Vote} |
| 9 | 03/12 | (S) | Transmitted To House |
| 10 | 03/14 | (S) | Enrolled Bill Signed |
| 11 | 03/14 | (H) | Enrolled Bill Signed |
| 12 | 03/20 | | Approved by Governor |

Code Section: A 025-0011-0103

----- Additional Information -----

House Committee: Appropriations

Senate Committee: Finance

Principal Author: Currie

Title: AN ACT TO AMEND SECTION 25-11-103, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE VALUE OF ANY MAINTENANCE FURNISHED TO MEMBERS OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM ON OR AFTER JULY 1, 2013, SHALL NOT BE INCLUDED IN THE EARNED COMPENSATION OF THE MEMBERS FOR RETIREMENT PURPOSES; TO EXCLUDE THE VALUE OF ANY

IN-KIND BENEFITS FROM THE COMPUTATION OF EARNED COMPENSATION;
AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI HB 1174

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Appropriations

By: Representative Currie

House Bill 1174

(As Sent to Governor)

AN ACT TO AMEND SECTION 25-11-103, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE VALUE OF ANY MAINTENANCE FURNISHED TO MEMBERS OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM ON OR AFTER JULY 1, 2013, SHALL NOT BE INCLUDED IN THE EARNED COMPENSATION OF THE MEMBERS FOR RETIREMENT PURPOSES; TO EXCLUDE THE VALUE OF ANY IN-KIND BENEFITS FROM THE COMPUTATION OF EARNED COMPENSATION; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 25-11-103, Mississippi Code of 1972, is amended as follows:

25-11-103. The following words and phrases as used in Articles 1 and 3, unless a different meaning is plainly required by the context, have the following meanings:

(a) "Accumulated contributions" means the sum of all the amounts deducted from the compensation of a member and credited to his or her individual account in the annuity savings account, together with regular interest as provided in Section 25-11-123.

(b) "Actuarial cost" means the amount of funds presently required to provide future benefits as determined by the board based on applicable tables and formulas provided by the actuary.

(c) "Actuarial equivalent" means a benefit of equal value to the accumulated contributions, annuity or benefit, as the case may be, when computed upon the basis of such mortality tables as adopted by the board of trustees, and regular interest.

(d) "Actuarial tables" means such tables of mortality and rates of interest as adopted by the board in accordance with the recommendation of the actuary.

(e) "Agency" means any governmental body employing persons in the state service.

(f) "Average compensation" means the average of the four (4) highest years of earned compensation reported for an employee in a fiscal or calendar year period, or combination thereof that do not overlap, or the last forty-eight (48) consecutive months of earned compensation reported for an employee. The four (4) years need not be successive or joined years of service. In computing the average compensation for retirement, disability or survivor benefits, any amount lawfully paid in a lump sum for personal leave or major medical leave shall be included in the calculation to the extent that the amount does not exceed an amount that is equal to thirty (30) days of earned compensation and to the extent that it does not cause the employee's earned compensation to exceed the maximum reportable amount specified in paragraph (k) of this section; however, this thirty-day limitation shall not prevent the inclusion in the calculation of leave earned under federal regulations before July 1, 1976, and frozen as of that date as referred to in Section 25-3-99. In computing the average compensation, no amounts shall be used that are in excess of the amount on which contributions were required and paid, and no nontaxable amounts paid by the employer for health or life insurance premiums for the employee shall be used. If any member who is or has been granted any increase in annual salary or compensation of more than eight percent (8%) retires within twenty-four (24) months from the date that the increase becomes effective, then the board shall exclude that part of the increase in salary or compensation that exceeds eight percent (8%) in calculating that member's average compensation for retirement purposes. The board may enforce this provision by rule or regulation. However, increases in compensation in excess of eight percent (8%) per year granted within twenty-four (24) months of the date of retirement may be included in the calculation of average compensation if satisfactory proof is presented to the board showing that the increase in compensation was the result of an actual change in the position held or services rendered, or that the compensation increase was authorized by the State Personnel Board or was increased as a result of statutory enactment, and the employer furnishes an affidavit stating that the increase granted within the last twenty-four (24) months was not contingent on a promise or agreement of the employee to retire. Nothing in Section 25-3-31 shall affect the calculation of the average compensation of any member for

the purposes of this article. The average compensation of any member who retires before July 1, 1992, shall not exceed the annual salary of the Governor.

(g) "Beneficiary" means any person entitled to receive a retirement allowance, an annuity or other benefit as provided by Articles 1 and 3. The term "beneficiary" may also include an organization, estate, trust or entity; however, a beneficiary designated or entitled to receive monthly payments under an optional settlement based on life contingency or under a statutory monthly benefit may only be a natural person. In the event of the death before retirement of any member who became a member of the system before July 1, 2007, and whose spouse and/or children are not entitled to a retirement allowance on the basis that the member has less than four (4) years of service credit, or who became a member of the system on or after July 1, 2007, and whose spouse and/or children are not entitled to a retirement allowance on the basis that the member has less than eight (8) years of service credit, and/or has not been married for a minimum of one (1) year or the spouse has waived his or her entitlement to a retirement allowance under Section 25-11-114, the lawful spouse of a member at the time of the death of the member shall be the beneficiary of the member unless the member has designated another beneficiary after the date of marriage in writing, and filed that writing in the office of the executive director of the board of trustees. No designation or change of beneficiary shall be made in any other manner.

(h) "Board" means the board of trustees provided in Section 25-11-15 to administer the retirement system created under this article.

(i) "Creditable service" means "prior service," "retroactive service" and all lawfully credited unused leave not exceeding the accrual rates and limitations provided in Section 25-3-91 et seq., as of the date of withdrawal from service plus "membership service" and other service for which credit is allowable as provided in Section 25-11-109. Except to limit creditable service reported to the system for the purpose of computing an employee's retirement allowance or annuity or benefits provided in this article, nothing in this paragraph shall limit or otherwise restrict the power of the governing authority of a municipality or other political

subdivision of the state to adopt such vacation and sick leave policies as it deems necessary.

(j) "Child" means either a natural child of the member, a child that has been made a child of the member by applicable court action before the death of the member, or a child under the permanent care of the member at the time of the latter's death, which permanent care status shall be determined by evidence satisfactory to the board.

(k) "Earned compensation" means the full amount earned during a fiscal year by an employee* * * not to exceed the employee compensation limit set pursuant to Section 401(a) (17) of the Internal Revenue Code for the calendar year in which the fiscal year begins and proportionately for less than one (1) year of service. Except as otherwise provided in this paragraph, the value of* * * maintenance* * * furnished to an employee shall not be included in earned compensation. Earned compensation shall not include any* * * amounts paid by the employer for health or life insurance premiums for an employee. * * * Earned compensation shall be limited to the regular periodic compensation paid, exclusive of litigation fees, bond fees, performance-based incentive payments, and other similar extraordinary nonrecurring payments. In addition, any member in a covered position, as defined by Public Employees' Retirement System laws and regulations, who is also employed by another covered agency or political subdivision shall have the earnings of that additional employment reported to the Public Employees' Retirement System regardless of whether the additional employment is sufficient in itself to be a covered position. In addition, computation of earned compensation shall be governed by the following:

(i) In the case of constables, the net earnings from their office after deduction of expenses shall apply, except that in no case shall earned compensation be less than the total direct payments made by the state or governmental subdivisions to the official.

(ii) In the case of chancery or circuit clerks, the net earnings from their office after deduction of expenses shall apply as expressed in Section 25-11-123(f) (4).

(iii) In the case of members of the State Legislature, all remuneration or amounts paid, except mileage allowance, shall apply.

2013 GENERAL LAWS OF MISSISSIPPI HB 1174

(iv) The amount by which an eligible employee's salary is reduced under a salary reduction agreement authorized under Section 25-17-5 shall be included as earned compensation under this paragraph, provided this inclusion does not conflict with federal law, including federal regulations and federal administrative interpretations under the federal law, pertaining to the Federal Insurance Contributions Act or to Internal Revenue Code Section 125 cafeteria plans.

(v) Compensation in addition to an employee's base salary that is paid to the employee under the vacation and sick leave policies of a municipality or other political subdivision of the state that employs him or her that exceeds the maximums authorized by Section 25-3-91 et seq. shall be excluded from the calculation of earned compensation under this article.

(vi) The maximum salary applicable for retirement purposes before July 1, 1992, shall be the salary of the Governor.

(vii) Nothing in Section 25-3-31 shall affect the determination of the earned compensation of any member for the purposes of this article.

(viii) The value of maintenance furnished to an employee before July 1, 2013, for which the proper amount of employer and employee contributions have been paid, shall be included in earned compensation. From and after July 1, 2013, the value of maintenance furnished to an employee shall be reported as earned compensation only if the proper amount of employer and employee contributions have been paid on the maintenance and the employee was receiving maintenance and having maintenance reported to the system as of June 30, 2013. The value of maintenance when not paid in money shall be fixed by the employing state agency, and, in case of doubt, by the board of trustees as defined in Section 25-11-15.

(ix) Except as otherwise provided in this paragraph, the value of any in-kind benefits provided by the employer shall not be included in earned compensation. As used in this subparagraph, "in-kind benefits" shall include, but not be limited to, group life insurance premiums, health or dental insurance premiums, nonpaid major medical and personal leave, employer contributions for social security and retirement, tuition reimbursement or educational funding, day care or transportation benefits.

2013 GENERAL LAWS OF MISSISSIPPI HB 1174

(l) "Employee" means any person legally occupying a position in the state service, and shall include the employees of the retirement system created under this article.

(m) "Employer" means the State of Mississippi or any of its departments, agencies or subdivisions from which any employee receives his or her compensation.

(n) "Executive director" means the secretary to the board of trustees, as provided in Section 25-11-15(9), and the administrator of the Public Employees' Retirement System and all systems under the management of the board of trustees. Wherever the term "Executive Secretary of the Public Employees' Retirement System" or "executive secretary" appears in this article or in any other provision of law, it shall be construed to mean the Executive Director of the Public Employees' Retirement System.

(o) "Fiscal year" means the period beginning on July 1 of any year and ending on June 30 of the next succeeding year.

(p) "Medical board" means the board of physicians or any governmental or nongovernmental disability determination service designated by the board of trustees that is qualified to make disability determinations as provided for in Section 25-11-119.

(q) "Member" means any person included in the membership of the system as provided in Section 25-11-105. For purposes of Sections 25-11-103, 25-11-105, 25-11-109, 25-11-111, 25-11-113, 25-11-114, 25-11-115 and 25-11-117, if a member of the system withdrew from state service and received a refund of the amount of the accumulated contributions to the credit of the member in the annuity savings account before July 1, 2007, and the person reenters state service and becomes a member of the system again on or after July 1, 2007, and repays all or part of the amount received as a refund and interest in order to receive creditable service for service rendered before July 1, 2007, the member shall be considered to have become a member of the system on or after July 1, 2007, subject to the eight-year membership service requirement, as applicable in those sections. For purposes of Sections 25-11-103, 25-11-111, 25-11-114 and 25-11-115, if a member of the system withdrew from state service and received a refund of the amount of the accumulated contributions to the credit of the member in the annuity savings account before July 1, 2011, and the person reenters state service and becomes a member of

the system again on or after July 1, 2011, and repays all or part of the amount received as a refund and interest in order to receive creditable service for service rendered before July 1, 2011, the member shall be considered to have become a member of the system on or after July 1, 2011.

(r) "Membership service" means service as an employee in a covered position rendered while a contributing member of the retirement system.

(s) "Position" means any office or any employment in the state service, or two (2) or more of them, the duties of which call for services to be rendered by one (1) person, including positions jointly employed by federal and state agencies administering federal and state funds. The employer shall determine upon initial employment and during the course of employment of an employee who does not meet the criteria for coverage in the Public Employees' Retirement System based on the position held, whether the employee is or becomes eligible for coverage in the Public Employees' Retirement System based upon any other employment in a covered agency or political subdivision. If or when the employee meets the eligibility criteria for coverage in the other position, then the employer must withhold contributions and report wages from the noncovered position in accordance with the provisions for reporting of earned compensation. Failure to deduct and report those contributions shall not relieve the employee or employer of liability thereof. The board shall adopt such rules and regulations as necessary to implement and enforce this provision.

(t) "Prior service" means:

(i) For persons who became members of the system before July 1, 2007, service rendered before February 1, 1953, for which credit is allowable under Sections 25-11-105 and 25-11-109, and which shall allow prior service for any person who is now or becomes a member of the Public Employees' Retirement System and who does contribute to the system for a minimum period of four (4) years.

(ii) For persons who became members of the system on or after July 1, 2007, service rendered before February 1, 1953, for which credit is allowable under Sections 25-11-105 and 25-11-109, and which shall allow prior service for any person who is now or becomes a member of the Public Employees'

Retirement System and who does contribute to the system for a minimum period of eight (8) years.

(u) "Regular interest" means interest compounded annually at such a rate as determined by the board in accordance with Section 25-11-121.

(v) "Retirement allowance" means an annuity for life as provided in this article, payable each year in twelve (12) equal monthly installments beginning as of the date fixed by the board. The retirement allowance shall be calculated in accordance with Section 25-11-111. However, any spouse who received a spouse retirement benefit in accordance with Section 25-11-111(d) before March 31, 1971, and those benefits were terminated because of eligibility for a social security benefit, may again receive his or her spouse retirement benefit from and after making application with the board of trustees to reinstate the spouse retirement benefit.

(w) "Retroactive service" means service rendered after February 1, 1953, for which credit is allowable under Section 25-11-105(b) and Section 25-11-105(k).

(x) "System" means the Public Employees' Retirement System of Mississippi established and described in Section 25-11-101.

(y) "State" means the State of Mississippi or any political subdivision thereof or instrumentality of the state.

(z) "State service" means all offices and positions of trust or employment in the employ of the state, or any political subdivision or instrumentality of the state, that elect to participate as provided by Section 25-11-105(f), including the position of elected or fee officials of the counties and their deputies and employees performing public services or any department, independent agency, board or commission thereof, and also includes all offices and positions of trust or employment in the employ of joint state and federal agencies administering state and federal funds and service rendered by employees of the public schools. Effective July 1, 1973, all nonprofessional public school employees, such as bus drivers, janitors, maids, maintenance workers and cafeteria employees, shall have the option to become members in accordance with Section 25-11-105(b), and shall be eligible to receive credit for services before July 1, 1973, provided that the contributions and interest are paid

by the employee in accordance with that section; in addition, the county or municipal separate school district may pay the employer contribution and pro rata share of interest of the retroactive service from available funds. From and after July 1, 1998, retroactive service credit shall be purchased at the actuarial cost in accordance with Section 25-11-105(b).

(aa) "Withdrawal from service" or "termination from service" means complete severance of employment in the state service of any member by resignation, dismissal or discharge.

(bb) The masculine pronoun, wherever used, includes the feminine pronoun.

SECTION 2. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

House Bill 1233

Description: S.A.F.E. Mortgage Act; violation of limitation on owner financing of residential mortgage loans will not affect title.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2013

Chapter Number: 421

History of Actions:

- | | | | |
|---|-------|-----|--|
| 1 | 01/21 | (H) | Referred To Banking and Financial Services |
| 2 | 02/05 | (H) | Title Suff Do Pass |
| 3 | 02/07 | (H) | Passed {Vote} |
| 4 | 02/08 | (H) | Transmitted To Senate |
| 5 | 02/13 | (S) | Referred To Business and Financial |

Institutions

- | | | | |
|----|-------|-----|----------------------|
| 6 | 02/28 | (S) | Title Suff Do Pass |
| 7 | 03/08 | (S) | Passed {Vote} |
| 8 | 03/11 | (S) | Transmitted To House |
| 9 | 03/12 | (H) | Enrolled Bill Signed |
| 10 | 03/12 | (S) | Enrolled Bill Signed |
| 11 | 03/20 | | Approved by Governor |

Code Section: RA 081-0018-0005

----- Additional Information -----

House Committee: Banking and Financial Services

Senate Committee: Business and Financial Institutions

Principal Author: Snowden

Title: AN ACT TO AMEND SECTION 81-18-5, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A VIOLATION OF THE EXEMPTION FROM THE MISSISSIPPI S.A.F.E. MORTGAGE ACT FOR PERSONS WHO OWNER FINANCE NOT MORE THAN TEN RESIDENTIAL MORTGAGE LOANS IN ONE YEAR WILL NOT AFFECT THE TITLE OF THE PURCHASER/BORROWER OR THE OBLIGATION OF

THE PURCHASER/BORROWER UNDER THE TERMS OF THE MORTGAGE LOAN;
AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI HB 1233

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Banking and Financial Services

By: Representative Snowden

House Bill 1233

(As Sent to Governor)

AN ACT TO AMEND SECTION 81-18-5, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A VIOLATION OF THE EXEMPTION FROM THE MISSISSIPPI S.A.F.E. MORTGAGE ACT FOR PERSONS WHO OWNER FINANCE NOT MORE THAN TEN RESIDENTIAL MORTGAGE LOANS IN ONE YEAR WILL NOT AFFECT THE TITLE OF THE PURCHASER/BORROWER OR THE OBLIGATION OF THE PURCHASER/BORROWER UNDER THE TERMS OF THE MORTGAGE LOAN; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 81-18-5, Mississippi Code of 1972, is reenacted and amended as follows:

81-18-5. The following are exempt from the provisions of this chapter:

(a) Registered mortgage loan originators, when acting for an entity described in Section 81-18-3(ii).

(b) Any person who offers or negotiates terms of a residential mortgage loan with or on behalf of an immediate family member of the individual.

(c) Any person, estate or trust who owner finances in one (1) calendar year no more than ten (10) residential mortgage loans or no more than twenty percent (20%) of his total residential units sold, whichever is greater. A violation of this paragraph (c) shall not affect the title of the purchaser/borrower or the obligation of the purchaser/borrower under the terms of the mortgage loan.

(d) A licensed attorney who negotiates the terms of a residential mortgage loan on behalf of a client as an ancillary matter to the attorney's representation of the client, unless the attorney is compensated by a lender, a mortgage broker, or other mortgage loan originator or by any agent of the lender, mortgage broker, or other mortgage loan originator.

2013 GENERAL LAWS OF MISSISSIPPI HB 1233

(e) A depository institution, or a subsidiary that is owned and controlled by a depository institution, or an institution regulated by the Farm Credit Administration.

(f) Any mortgage lender who holds a valid license under the provisions of the Small Loan Regulatory Law, Section 75-67-101 et seq., and the Small Loan Privilege Tax Law, Section 75-67-201 et seq., and whose mortgage lending activities are limited solely to the servicing of mortgage loans that were in such mortgage lender's own loan portfolio as of December 31, 2009. For the purposes of the exemption in this paragraph (f), "servicing of mortgage loans" shall mean and include the collection of payments of principal and interest, insurance premiums, taxes and other payments required under such mortgage loans, and shall also include activities related to the collection of such payments such as collection calls whether by phone, mail, electronic means or in person, and enforcement remedies permitted by law or at equity. In no event shall the term "servicing of mortgage loans" include the renewal or reworking of the mortgage. If a mortgage loan is renewed or reworked, the lender shall be required to obtain a mortgage license in order to continue any mortgage activity described in this chapter.

(g) Any bona fide nonprofit organization and its employees who demonstrate to the satisfaction of the commissioner through the periodic examination of the books and activities of the organization as required in Section 81-18-21, Mississippi Code of 1972, that they continually meet the following requirements, at a minimum:

(i) Maintains tax-exempt status under Section 501(c)(3) of the Internal Revenue Code of 1986;

(ii) Promotes affordable housing or provides homeownership education, or similar services;

(iii) Conducts its activities in a manner that serves public or charitable purposes;

(iv) Receives funding and revenue and charges fees in a manner that does not incentivize the organization or its employees to act other than in the best interests of its clients;

(v) Compensates employees in a manner that does not incentivize employees to act other than in the best interests of its client; and

(vi) Provides to or identifies for the borrower residential mortgage loans with terms that are favorable to the borrower and comparable to mortgage loans and housing assistance provided under government housing assistance programs.

(h) Any person who is an employee of a government agency or housing finance agency who acts as a mortgage loan originator in accordance with his duties as an employee of such agency.

(i) Any person who performs clerical or support duties at the direction of and subject to the supervision and instruction of a state-licensed loan originator or a registered loan originator. For purposes of this paragraph (i), the term "clerical or support duties" may include:

(i) The receipt, collection, distribution and analysis of information common for the processing or underwriting of a residential mortgage loan; and

(ii) Communicating with a consumer to obtain the information necessary for the processing or underwriting of a loan, to the extent that such communication does not include offering or negotiating loan rates or terms, or counseling consumers about residential mortgage loan rates or terms.

SECTION 2. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

House Bill 1265

Description: State agencies and departments; require to file report with DFA of all transactions for conveyances of real property.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: Passage

Chapter Number: 399

History of Actions:

- | | | | |
|----|-------|-----|------------------------------|
| 1 | 01/21 | (H) | Referred To Public Property |
| 2 | 02/05 | (H) | Title Suff Do Pass Comm Sub |
| 3 | 02/07 | (H) | Committee Substitute Adopted |
| 4 | 02/07 | (H) | Passed {Vote} |
| 5 | 02/11 | (H) | Transmitted To Senate |
| 6 | 02/15 | (S) | Referred To Public Property |
| 7 | 03/04 | (S) | Title Suff Do Pass |
| 8 | 03/07 | (S) | Passed {Vote} |
| 9 | 03/08 | (S) | Transmitted To House |
| 10 | 03/12 | (H) | Enrolled Bill Signed |
| 11 | 03/12 | (S) | Enrolled Bill Signed |
| 12 | 03/20 | | Approved by Governor |

----- **Additional Information** -----

House Committee: Public Property

Senate Committee: Public Property

Principal Author: Weathersby

Additional Authors: Scott

Title: AN ACT TO REQUIRE EACH AGENCY, DEPARTMENT, COMMUNITY OR JUNIOR COLLEGE AND PUBLIC INSTITUTION OF HIGHER LEARNING OF THE STATE OF MISSISSIPPI TO FILE A REPORT OF TRANSACTIONS FOR ALL CONVEYANCES OF REAL PROPERTY, WHETHER PURCHASED, SOLD, LEASED, DONATED OR ACQUIRED AS A GIFT OR THROUGH THE PROCESS OF EMINENT

DOMAIN, TO THE DEPARTMENT OF FINANCE AND ADMINISTRATION BUREAU OF BUILDINGS, GROUNDS AND REAL PROPERTY ON A BASIS DETERMINED BY THE DEPARTMENT OF FINANCE AND ADMINISTRATION FOR THE FILING OF SUCH REPORTS; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Public Property

By: Representatives Weathersby, Scott

House Bill 1265

(As Sent to Governor)

AN ACT TO REQUIRE EACH AGENCY, DEPARTMENT, COMMUNITY OR JUNIOR COLLEGE AND PUBLIC INSTITUTION OF HIGHER LEARNING OF THE STATE OF MISSISSIPPI TO FILE A REPORT OF TRANSACTIONS FOR ALL CONVEYANCES OF REAL PROPERTY, WHETHER PURCHASED, SOLD, LEASED, DONATED OR ACQUIRED AS A GIFT OR THROUGH THE PROCESS OF EMINENT DOMAIN, TO THE DEPARTMENT OF FINANCE AND ADMINISTRATION BUREAU OF BUILDINGS, GROUNDS AND REAL PROPERTY ON A BASIS DETERMINED BY THE DEPARTMENT OF FINANCE AND ADMINISTRATION FOR THE FILING OF SUCH REPORTS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Each agency, department, community or junior college and public institution of higher learning of the State of Mississippi shall file a report of transactions for all conveyances of real property, whether purchased, sold, leased, donated or acquired as a gift or through the process of eminent domain, to the Department of Finance and Administration Bureau of Buildings, Grounds and Real Property on a basis determined by the department for the filing of such reports. However, reports, at a minimum, shall be filed with the department at least once annually.

SECTION 2. This act shall take effect and be in force from and after its passage.

Mississippi Legislature

2013 Regular Session

House Bill 1277

Description: Motor vehicle accident; repeal laws requiring security deposit after.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: Passage

Chapter Number: 389

History of Actions:

- | | | | |
|----|-------|-----|---|
| 1 | 01/21 | (H) | Referred To Insurance |
| 2 | 01/29 | (H) | Title Suff Do Pass |
| 3 | 02/01 | (H) | Failed {Vote} |
| 4 | 02/01 | (H) | Motion to Reconsider Entered (Chism, Buck
(5th), Gipson) |
| 5 | 02/06 | (H) | Reconsidered |
| 6 | 02/06 | (H) | Passed {Vote} |
| 7 | 02/07 | (H) | Transmitted To Senate |
| 8 | 02/13 | (S) | Referred To Insurance |
| 9 | 02/20 | (S) | Title Suff Do Pass |
| 10 | 03/07 | (S) | Passed {Vote} |
| 11 | 03/08 | (S) | Transmitted To House |
| 12 | 03/12 | (H) | Enrolled Bill Signed |
| 13 | 03/12 | (S) | Enrolled Bill Signed |
| 14 | 03/20 | | Approved by Governor |

Code Section: RP 063-0015-0011, RP 063-0015-0013, RP 063-0015-0015, RP 063-0015-0017, RP 063-0015-0019, RP 063-0015-0021

----- Additional Information -----

House Committee: Insurance

Senate Committee: Insurance

Principal Author: Chism

Title: AN ACT TO REPEAL SECTIONS 63-15-11 THROUGH 63-15-21, MISSISSIPPI CODE OF 1972, WHICH REQUIRE THE DEPOSIT OF SECURITY FOR DAMAGES

RESULTING FROM A MOTOR VEHICLE ACCIDENT AND PROVIDE FOR THE SUSPENSION OF LICENSES AND REGISTRATIONS UPON THE FAILURE TO DEPOSIT THE SECURITY; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Insurance

By: Representative Chism

House Bill 1277
(As Sent to Governor)

AN ACT TO REPEAL SECTIONS 63-15-11 THROUGH 63-15-21, MISSISSIPPI CODE OF 1972, WHICH REQUIRE THE DEPOSIT OF SECURITY FOR DAMAGES RESULTING FROM A MOTOR VEHICLE ACCIDENT AND PROVIDE FOR THE SUSPENSION OF LICENSES AND REGISTRATIONS UPON THE FAILURE TO DEPOSIT THE SECURITY; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 63-15-11, Mississippi Code of 1972, which requires a deposit of security for damages resulting from a motor vehicle accident, is repealed.

SECTION 2. Section 63-15-13, Mississippi Code of 1972, which provides exemptions from the security requirement under the Motor Vehicle Safety-Responsibility Act, is repealed.

SECTION 3. Section 63-15-15, Mississippi Code of 1972, which provides for the duration of the suspension for failure to deposit security under the Motor Vehicle Safety-Responsibility Act, is repealed.

SECTION 4. Section 63-15-17, Mississippi Code of 1972, which provides for the application of security requirements to nonresidents, unlicensed drivers and accidents in other states, is repealed.

SECTION 5. Section 63-15-19, Mississippi Code of 1972, which provides for the form and amount of security required to be deposited under the Motor Vehicle Safety-Responsibility Act, is repealed.

SECTION 6. Section 63-15-21, Mississippi Code of 1972, which provides for the custody, disposition and return of security under the Motor Vehicle Safety-Responsibility Act, is repealed.

SECTION 7. This act shall take effect and be in force from and after its passage.

Mississippi Legislature

2013 Regular Session

House Bill 1285

Description: Local and private taxes; authorize a compensation to taxpayers for collecting and filing returns for.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: Passage

Chapter Number: 420

History of Actions:

- | | | | |
|----|-------|-----|----------------------------|
| 1 | 01/21 | (H) | Referred To Ways and Means |
| 2 | 02/04 | (H) | Title Suff Do Pass |
| 3 | 02/06 | (H) | Passed {Vote} |
| 4 | 02/07 | (H) | Transmitted To Senate |
| 5 | 02/19 | (S) | Referred To Finance |
| 6 | 03/05 | (S) | Title Suff Do Pass |
| 7 | 03/11 | (S) | Passed {Vote} |
| 8 | 03/12 | (S) | Transmitted To House |
| 9 | 03/14 | (S) | Enrolled Bill Signed |
| 10 | 03/14 | (H) | Enrolled Bill Signed |
| 11 | 03/20 | | Approved by Governor |

Code Section: A 027-0065-0033

----- Additional Information -----

House Committee: Ways and Means

Senate Committee: Finance

Principal Author: Warren

Title: AN ACT TO AMEND SECTION 27-65-33, MISSISSIPPI CODE OF 1972, TO AUTHORIZE A COMPENSATION TO TAXPAYERS FOR COLLECTING TAXES IMPOSED UNDER LOCAL AND PRIVATE LAWS OF THIS STATE AND FILING NECESSARY RETURNS WITH THE DEPARTMENT OF REVENUE; TO PROVIDE FOR THE AMOUNT OF SUCH COMPENSATION; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI HB 1285

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Ways and Means

By: Representative Warren

House Bill 1285

(As Sent to Governor)

AN ACT TO AMEND SECTION 27-65-33, MISSISSIPPI CODE OF 1972, TO AUTHORIZE A COMPENSATION TO TAXPAYERS FOR COLLECTING TAXES IMPOSED UNDER LOCAL AND PRIVATE LAWS OF THIS STATE AND FILING NECESSARY RETURNS WITH THE DEPARTMENT OF REVENUE; TO PROVIDE FOR THE AMOUNT OF SUCH COMPENSATION; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 27-65-33, Mississippi Code of 1972, is amended as follows:

[Until July 1, 2013, this section shall read as follows:]

27-65-33. (1) (a) Except as otherwise provided in this section, the taxes levied by this chapter shall be due and payable on or before the twentieth day of the month next succeeding the month in which the tax accrues, except as otherwise provided. Returns and payments placed in the mail must be postmarked by the due date in order to be considered timely filed, except when the due date falls on a weekend or holiday, returns and payments placed in the mail must be postmarked by the first working day following the due date in order to be considered timely filed. The taxpayer shall make a return showing the gross proceeds of sales or the gross income of the business, and any and all allowable deductions, or exempt sales, and compute the tax due for the period covered.

(b) As compensation for collecting sales and use taxes, complying fully with the applicable statutes, filing returns and supplements thereto and paying all taxes by the twentieth of the month following the period covered, the taxpayer may discount and retain two percent (2%) of the liability on each return subject to the following limitations:

(* * * i) The compensation or discount shall not apply to taxes levied under the provisions of Sections 27-65-19 and 27-65-21, or on charges for ginning cotton under Section 27-65-23.

(* * * ii) The compensation or discount shall not apply to taxes collected by a county official or state agency.

(* * * iii) The compensation or discount shall not exceed Fifty Dollars (\$50.00) per month, or Six Hundred Dollars (\$600.00) per calendar year, per business location on each state sales tax return, or on each use tax return.

(* * * iv) The compensation or discount shall not apply to any wholesale tax, the rate of which is equal to or greater than the tax rate applicable to retail sales of the same property or service. The retailer of such items shall be entitled to the compensation based on the tax computed on retail sales before application of the credit for any tax paid to the wholesaler, jobber, or other person.

(* * * v) The compensation or discount allowed and taken for any filing period may be reassessed and collected when an audit of a taxpayer's records reveals a tax deficiency for that period.

(c) As compensation for collecting any tax imposed under the authority of a local and private law of the State of Mississippi which is collected and paid to the Department of Revenue in the same or similar manner that state sales taxes are collected and paid, complying fully with such applicable law, filing returns and supplements thereto and paying all taxes by the twentieth of the month following the period covered, the taxpayer may discount and retain two percent (2%) of the liability on each return subject to the following limitations:

(i) The compensation or discount shall not apply to taxes collected by a county official or state agency.

(ii) The compensation or discount shall not exceed Fifty Dollars (\$50.00) per month, or Six Hundred Dollars (\$600.00) per calendar year, per business location on each return.

(iii) The compensation or discount allowed and taken for any filing period may be reassessed and collected when an audit of a taxpayer's records reveals a tax deficiency for that period.

(2) A taxpayer required to collect sales taxes under this chapter and having an average monthly sales tax liability of at least Twenty Thousand Dollars (\$20,000.00) for the preceding

calendar year shall pay to the Department of Revenue on or before June 25, 2003, and on or before the twenty-fifth day of June of each succeeding year thereafter, an amount equal to at least seventy-five percent (75%) of such taxpayer's estimated sales tax liability for the month of June of the current calendar year, or an amount equal to at least seventy-five percent (75%) of the taxpayer's sales tax liability for the month of June of the preceding calendar year. Payments required to be made under this subsection must be received by the Department of Revenue no later than June 25 in order to be considered timely made. A taxpayer that fails to comply with the requirements of this subsection may be assessed a penalty in an amount equal to ten percent (10%) of the difference between any amount the taxpayer pays pursuant to this subsection and the taxpayer's actual sales tax liability for the month of June for which the estimated payment was required to be made. Payments made by a taxpayer under this subsection shall not be considered to be collected for the purposes of any sales tax diversions required by law until the taxpayer files a return for the actual sales taxes collected during the month of June. This subsection shall not apply to any agency, department or instrumentality of the United States, any agency, department, institution, instrumentality or political subdivision of the State of Mississippi, or any agency, department, institution or instrumentality of any political subdivision of the State of Mississippi. Payments made pursuant to this subsection for the month of June 2003, shall be deposited by the Department of Revenue into the Budget Contingency Fund created under Section 27-103-301, and payments made pursuant to this subsection for the month of June 2004, and each succeeding year thereafter, shall be deposited by the Department of Revenue into the State General Fund.

(3) All returns shall be sworn to by the taxpayer, if made by an individual, or by the president, vice president, secretary or treasurer of a corporation, or authorized agent, if made on behalf of a corporation. If made on behalf of a partnership, joint venture, association, trust, estate, or in any other group or combination acting as a unit, any individual delegated by such firm shall swear to the return on behalf of the taxpayer. The commissioner may prescribe methods by which the taxpayer may swear to his return.

(4) The commissioner may promulgate rules and regulations to require or permit filing periods of any duration, in lieu of monthly filing periods, for any taxpayer or group thereof.

(5) The commissioner may require the execution and filing by the taxpayer with the commissioner of a good and solvent bond with some surety company authorized to do business in Mississippi as surety thereon in an amount double the aggregate tax liability by such taxpayer for any previous three (3) months' period within the last calendar year or estimated three (3) months' tax liability. The bond is to be conditioned for the prompt payment of such taxes as may be due for each such return.

(6) The commissioner, for good cause, may grant such reasonable additional time within which to make any return required under the provisions of this chapter as he may deem proper, but the time for filing any return shall not be extended beyond the twentieth of the month next succeeding the regular due date of the return without the imposition of interest at the rate of one percent (1%) per month or fractional part of a month from the time the return was due until the tax is paid.

(7) For persistent, willful, or recurring failure to make any return and pay the tax shown thereby to be due by the time specified, there shall be added to the amount of tax shown to be due ten percent (10%) damages, or interest at the rate of one percent (1%) per month, or both.

(8) Any taxpayer may, upon making application therefor, obtain from the commissioner an extension of time for the payment of taxes due on credit sales until collections thereon have been made. When such extension is granted, the taxpayer shall thereafter include in each monthly or quarterly report all collections made during the preceding month or quarter, and shall pay the taxes due thereon at the time of filing such report. Such permission may be revoked or denied at the discretion of the commissioner when, in his opinion, a total sales basis will best reflect the taxable income or expedite examination of the taxpayer's records.

(9) Any taxpayer reporting credit sales before collection thereof has been made may take credit on subsequent returns or reports for bad debts actually charged off, if such amounts charged off have previously been included in taxable gross income or taxable gross proceeds of sales, as the case may be, and the tax paid thereon. However, any amounts subsequently

collected on accounts that have been charged off as bad debts shall be included in subsequent reports and the tax shall be paid thereon.

(10) In cases where an extension of time has been granted by the commissioner for payment of taxes due on credit sales and the taxpayer thereafter discontinues the business, such taxpayer shall be required to file with the commissioner within ten (10) days, or such further time as the commissioner may direct, from the date of the discontinuance of such business, a special report showing the amounts of any credit sales which have not been included in determining the measure of the tax previously paid and any other information with reference to credit sales as the commissioner may require. The commissioner shall thereupon investigate the facts with reference to credit sales and the condition of the accounts, and shall determine, from the best evidence available, the value of all open accounts, notes, or other evidence of debt arising from credit sales. The value of all notes, open accounts and other evidence of debt, as thus determined by the commissioner, shall be used in determining the amount of the tax for which such taxpayer shall be liable. When the amount of the tax shall have been ascertained, the taxpayer shall be required to pay the same within ten (10) days or such further time as the commissioner may allow, notwithstanding the fact that such note or accounts may still remain uncollected.

[From and after July 1, 2013, this section shall read as follows:]

27-65-33. (1) (a) Except as otherwise provided in this section, the taxes levied by this chapter shall be due and payable on or before the twentieth day of the month next succeeding the month in which the tax accrues, except as otherwise provided. Returns and payments placed in the mail must be postmarked by the due date in order to be considered timely filed, except when the due date falls on a weekend or holiday, returns and payments placed in the mail must be postmarked by the first working day following the due date in order to be considered timely filed. The taxpayer shall make a return showing the gross proceeds of sales or the gross income of the business, and any and all allowable deductions, or exempt sales, and compute the tax due for the period covered.

(b) As compensation for collecting sales and use taxes, complying fully with the applicable statutes, filing returns

and supplements thereto and paying all taxes by the twentieth of the month following the period covered, the taxpayer may discount and retain two percent (2%) of the liability on each return subject to the following limitations:

(* * * i) The compensation or discount shall not apply to taxes levied under the provisions of Sections 27-65-19 and 27-65-21, or on charges for ginning cotton under Section 27-65-23.

(* * * ii) The compensation or discount shall not apply to taxes collected by a county official or state agency.

(* * * iii) The compensation or discount shall not exceed Fifty Dollars (\$50.00) per month, or Six Hundred Dollars (\$600.00) per calendar year, per business location on each state sales tax return, or on each use tax return.

(* * * iv) The compensation or discount shall not apply to any wholesale tax, the rate of which is equal to or greater than the tax rate applicable to retail sales of the same property or service. The retailer of such items shall be entitled to the compensation based on the tax computed on retail sales before application of the credit for any tax paid to the wholesaler, jobber or other person.

(* * * v) The compensation or discount allowed and taken for any filing period may be reassessed and collected when an audit of a taxpayer's records reveals a tax deficiency for that period.

(c) As compensation for collecting any tax imposed under the authority of a local and private law of the State of Mississippi which is collected and paid to the Department of Revenue in the same or similar manner that state sales taxes are collected and paid, complying fully with such applicable law, filing returns and supplements thereto and paying all taxes by the twentieth of the month following the period covered, the taxpayer may discount and retain two percent (2%) of the liability on each return subject to the following limitations:

(i) The compensation or discount shall not apply to taxes collected by a county official or state agency.

(ii) The compensation or discount shall not exceed Fifty Dollars (\$50.00) per month, or Six Hundred Dollars

(\$600.00) per calendar year, per business location on each tax return.

(iii) The compensation or discount allowed and taken for any filing period may be reassessed and collected when an audit of a taxpayer's records reveals a tax deficiency for that period.

(2) A taxpayer required to collect sales taxes under this chapter and having an average monthly sales tax liability of at least Fifty Thousand Dollars (\$50,000.00) for the preceding calendar year shall pay to the Department of Revenue on or before June 25, 2014, and on or before the twenty-fifth day of June of each succeeding year thereafter, an amount equal to at least seventy-five percent (75%) of such taxpayer's estimated sales tax liability for the month of June of the current calendar year, or an amount equal to at least seventy-five percent (75%) of the taxpayer's sales tax liability for the month of June of the preceding calendar year. For the purposes of calculating a taxpayer's estimated sales tax liability for the month of June of the current calendar year, the taxpayer does not have to include taxes due on credit sales for which the taxpayer has not received payment before June 20. Payments required to be made under this subsection must be received by the Department of Revenue no later than June 25 in order to be considered timely made. A taxpayer that fails to comply with the requirements of this subsection may be assessed a penalty in an amount equal to ten percent (10%) of the difference between any amount the taxpayer pays pursuant to this subsection and the taxpayer's actual sales tax liability for the month of June for which the estimated payment was required to be made. Payments made by a taxpayer under this subsection shall not be considered to be collected for the purposes of any sales tax diversions required by law until the taxpayer files a return for the actual sales taxes collected during the month of June. This subsection shall not apply to any agency, department or instrumentality of the United States, any agency, department, institution, instrumentality or political subdivision of the State of Mississippi, or any agency, department, institution or instrumentality of any political subdivision of the State of Mississippi.

(3) All returns shall be sworn to by the taxpayer, if made by an individual, or by the president, vice president, secretary or treasurer of a corporation, or authorized agent,

if made on behalf of a corporation. If made on behalf of a partnership, joint venture, association, trust, estate, or in any other group or combination acting as a unit, any individual delegated by such firm shall swear to the return on behalf of the taxpayer. The commissioner may prescribe methods by which the taxpayer may swear to his return.

(4) The commissioner may promulgate rules and regulations to require or permit filing periods of any duration, in lieu of monthly filing periods, for any taxpayer or group thereof.

(5) The commissioner may require the execution and filing by the taxpayer with the commissioner of a good and solvent bond with some surety company authorized to do business in Mississippi as surety thereon in an amount double the aggregate tax liability by such taxpayer for any previous three-month period within the last calendar year or estimated three (3) months' tax liability. The bond is to be conditioned for the prompt payment of such taxes as may be due for each such return.

(6) The commissioner, for good cause, may grant such reasonable additional time within which to make any return required under the provisions of this chapter as he may deem proper, but the time for filing any return shall not be extended beyond the twentieth of the month next succeeding the regular due date of the return without the imposition of interest at the rate of one percent (1%) per month or fractional part of a month from the time the return was due until the tax is paid.

(7) For persistent, willful or recurring failure to make any return and pay the tax shown thereby to be due by the time specified, there shall be added to the amount of tax shown to be due ten percent (10%) damages, or interest at the rate of one percent (1%) per month, or both.

(8) Any taxpayer may, upon making application therefor, obtain from the commissioner an extension of time for the payment of taxes due on credit sales until collections thereon have been made. When such extension is granted, the taxpayer shall thereafter include in each monthly or quarterly report all collections made during the preceding month or quarter, and shall pay the taxes due thereon at the time of filing such report. Such permission may be revoked or denied at the discretion of the commissioner when, in his opinion, a total sales basis will best reflect the taxable income or expedite examination of the taxpayer's records.

(9) Any taxpayer reporting credit sales before collection thereof has been made may take credit on subsequent returns or reports for bad debts actually charged off, if such amounts charged off have previously been included in taxable gross income or taxable gross proceeds of sales, as the case may be, and the tax paid thereon. However, any amounts subsequently collected on accounts that have been charged off as bad debts shall be included in subsequent reports and the tax shall be paid thereon.

(10) In cases where an extension of time has been granted by the commissioner for payment of taxes due on credit sales and the taxpayer thereafter discontinues the business, such taxpayer shall be required to file with the commissioner within ten (10) days, or such further time as the commissioner may direct, from the date of the discontinuance of such business, a special report showing the amounts of any credit sales which have not been included in determining the measure of the tax previously paid and any other information with reference to credit sales as the commissioner may require. The commissioner shall thereupon investigate the facts with reference to credit sales and the condition of the accounts, and shall determine, from the best evidence available, the value of all open accounts, notes or other evidence of debt arising from credit sales. The value of all notes, open accounts and other evidence of debt, as thus determined by the commissioner, shall be used in determining the amount of the tax for which such taxpayer shall be liable. When the amount of the tax shall have been ascertained, the taxpayer shall be required to pay the same within ten (10) days or such further time as the commissioner may allow, notwithstanding the fact that such note or accounts may still remain uncollected.

SECTION 2. This act shall take effect and be in force from and after its passage.

Mississippi Legislature

2013 Regular Session

House Bill 1300

Description: Alcoholic beverages; allow manufacturer with distillery in state to provide samples subject to certain conditions.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: Passage

Chapter Number: 352

History of Actions:

- | | | | |
|----|-------|-----|----------------------------------|
| 1 | 01/21 | (H) | Referred To Ways and Means |
| 2 | 02/05 | (H) | Title Suff Do Pass |
| 3 | 02/06 | (H) | Passed {Vote} |
| 4 | 02/07 | (H) | Transmitted To Senate |
| 5 | 02/13 | (S) | Referred To Economic Development |
| 6 | 03/04 | (S) | Title Suff Do Pass |
| 7 | 03/07 | (S) | Passed {Vote} |
| 8 | 03/08 | (S) | Transmitted To House |
| 9 | 03/12 | (S) | Enrolled Bill Signed |
| 10 | 03/12 | (H) | Enrolled Bill Signed |
| 11 | 03/18 | | Approved by Governor |

----- **Additional Information** -----

House Committee: Ways and Means

Senate Committee: Economic Development

Principal Author: Martinson

Additional Authors: Reynolds

Title: AN ACT TO PROVIDE THAT A HOLDER OF A MANUFACTURER'S DISTILLER'S PERMIT WHO DISTILLS ALCOHOLIC BEVERAGES AT A DISTILLERY IN THIS STATE MAY PROVIDE LIMITED AMOUNTS OF ALCOHOLIC BEVERAGES ON THE PREMISES OF THE DISTILLERY FOR TASTING OR SAMPLING; TO PROVIDE THAT ALCOHOLIC BEVERAGES PROVIDED FOR TASTING OR SAMPLING MUST BE MANUFACTURED IN THIS STATE BY THE HOLDER OF THE PERMIT AT THE

DISTILLERY; TO PROVIDE THAT ALCOHOLIC BEVERAGE SAMPLES MAY BE PROVIDED ONLY TO PERSONS ON THE PREMISES OF A DISTILLERY AT NO COST AND FOR CONSUMPTION ON THE PREMISES OF THE DISTILLERY; TO PROVIDE THE TIMES DURING WHICH ALCOHOLIC BEVERAGE SAMPLES MAY BE PROVIDED AND THAT THE SAMPLES MUST BE PROVIDED IN CONJUNCTION WITH A TOUR OF THE DISTILLERY; TO LIMIT THE AMOUNT OF ALCOHOLIC BEVERAGE SAMPLES THAT MAY BE PROVIDED TO AN INDIVIDUAL WITHIN A TWENTY-FOUR-HOUR PERIOD; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Ways and Means

By: Representatives Martinson, Reynolds

House Bill 1300

(As Sent to Governor)

AN ACT TO PROVIDE THAT A HOLDER OF A MANUFACTURER'S DISTILLER'S PERMIT WHO DISTILLS ALCOHOLIC BEVERAGES AT A DISTILLERY IN THIS STATE MAY PROVIDE LIMITED AMOUNTS OF ALCOHOLIC BEVERAGES ON THE PREMISES OF THE DISTILLERY FOR TASTING OR SAMPLING; TO PROVIDE THAT ALCOHOLIC BEVERAGES PROVIDED FOR TASTING OR SAMPLING MUST BE MANUFACTURED IN THIS STATE BY THE HOLDER OF THE PERMIT AT THE DISTILLERY; TO PROVIDE THAT ALCOHOLIC BEVERAGE SAMPLES MAY BE PROVIDED ONLY TO PERSONS ON THE PREMISES OF A DISTILLERY AT NO COST AND FOR CONSUMPTION ON THE PREMISES OF THE DISTILLERY; TO PROVIDE THE TIMES DURING WHICH ALCOHOLIC BEVERAGE SAMPLES MAY BE PROVIDED AND THAT THE SAMPLES MUST BE PROVIDED IN CONJUNCTION WITH A TOUR OF THE DISTILLERY; TO LIMIT THE AMOUNT OF ALCOHOLIC BEVERAGE SAMPLES THAT MAY BE PROVIDED TO AN INDIVIDUAL WITHIN A TWENTY-FOUR-HOUR PERIOD; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. (1) The holder of a manufacturer's distiller's permit who distills alcoholic beverages at a distillery located in this state may offer and provide limited amounts of alcoholic beverages on the premises of the distillery for the purpose of tasting or sampling, subject to the following conditions:

(a) The alcoholic beverages provided for tasting or sampling must be manufactured in this state by the holder of the permit operating the distillery at the site of and on the premises of the distillery;

(b) The alcoholic beverages may be provided only to persons on the premises of the distillery at no cost and for consumption on the premises of the distillery;

(c) The alcoholic beverages may be provided for tasting or sampling between the hours of 8:00 a.m. and 10:00 p.m. on the same day and only in conjunction with a structured tour of the distillery and related facilities which must include

the entire manufacturing and distilling processes and methods used at the distillery;

(d) No one under twenty-one (21) years of age may participate in the tasting or sampling, and a sign indicating that prohibition shall be placed in a visible location at the entrance to the area where the tasting or sampling will be conducted;

(e) An individual size sample of alcoholic beverages shall not exceed one-fourth (1/4) ounce, and no more than four (4) samples of alcoholic beverages may be provided to an individual within a twenty-four-hour period; and

(f) The holder of the permit operating the distillery shall keep an accurate accounting of the various alcoholic beverages provided and consumed as samples._

SECTION 2. This act shall take effect and be in force from and after its passage.

Mississippi Legislature

2013 Regular Session

House Bill 1515

Description: Cities and counties; authorize to donate to chapters of YMCA within the city or county.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Two/Thirds

Effective date: July 1, 2013

Chapter Number: 396

History of Actions:

1	01/21	(H)	Referred To Municipalities; County Affairs
2	01/31	(H)	DR - TSDP: MU To CA
3	02/05	(H)	DR - TSDP: CA To MU
4	02/05	(H)	Title Suff Do Pass
5	02/13	(H)	Read the Third Time
6	02/14	(H)	Amended
7	02/14	(H)	Passed As Amended {Vote}
8	02/20	(H)	Transmitted To Senate
9	02/22	(S)	Referred To Accountability, Efficiency, Transparency
10	03/05	(S)	Title Suff Do Pass
11	03/11	(S)	Passed {Vote}
12	03/12	(S)	Transmitted To House
13	03/14	(S)	Enrolled Bill Signed
14	03/14	(H)	Enrolled Bill Signed
15	03/20		Approved by Governor

Amendments:

[H] Amendment No 1 *Adopted* Voice Vote

[H] Amendment No 2 *Adopted* Voice Vote

Code Section: A 019-0005-0093, BF 019-0005-0073, A 021-0019-0067, BF 021-0019-0069

----- Additional Information -----

House Committee: Municipalities, County Affairs

Senate Committee: Accountability, Efficiency, Transparency

Principal Author: Moak

Additional Authors: Byrd, Reynolds, Johnson, Flaggs, Zuber, Martinson, Smith (27th), Mettetal

Title: AN ACT TO AMEND SECTIONS 19-5-93 AND 21-19-67, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE GOVERNING AUTHORITIES OF ANY COUNTY OR MUNICIPALITY MAY DONATE FUNDS TO CHAPTERS OF THE YOUNG MEN'S CHRISTIAN ASSOCIATION; TO FURTHER AMEND SECTION 21-19-67, MISSISSIPPI CODE OF 1972, TO CLARIFY THE AUTHORITY OF THE GOVERNING AUTHORITIES TO DONATE FUNDS TO CERTAIN CERTIFIED FARMERS' MARKETS; TO BRING FORWARD SECTIONS 19-5-73 AND 21-19-69, MISSISSIPPI CODE OF 1972, FOR PURPOSES OF POSSIBLE AMENDMENT OR REPEAL TO CONFORM TO THE PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI HB 1515

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Municipalities; County Affairs

By: Representatives Moak, Byrd, Reynolds, Johnson, Flaggs,
Zuber, Martinson, Smith (27th), Mettetal

House Bill 1515

(As Sent to Governor)

AN ACT TO AMEND SECTIONS 19-5-93 AND 21-19-67, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE GOVERNING AUTHORITIES OF ANY COUNTY OR MUNICIPALITY MAY DONATE FUNDS TO CHAPTERS OF THE YOUNG MEN'S CHRISTIAN ASSOCIATION; TO FURTHER AMEND SECTION 21-19-67, MISSISSIPPI CODE OF 1972, TO CLARIFY THE AUTHORITY OF THE GOVERNING AUTHORITIES TO DONATE FUNDS TO CERTAIN CERTIFIED FARMERS' MARKETS; TO BRING FORWARD SECTIONS 19-5-73 AND 21-19-69, MISSISSIPPI CODE OF 1972, FOR PURPOSES OF POSSIBLE AMENDMENT OR REPEAL TO CONFORM TO THE PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 19-5-93, Mississippi Code of 1972, is amended as follows:

19-5-93. The board of supervisors of each county is authorized, in its discretion, to donate money for the objects and purposes following, to wit:

(a) **Confederate graves.** For the location, marking, care and maintenance of the grave or graves and graveyard of Confederate soldiers or sailors who died in the Confederate service, and the purchase, if necessary, of the land on which any of the said graveyards may be situated, and the erection and maintenance of appropriate monuments and appropriate inscriptions thereon. In the exercise of this power the board is fully authorized to accept donations of land on which any of said graveyards may be situated and also money or funds to be used for any of the purposes in this section expressed.

Any board of supervisors may, in its discretion, contribute money to be used for the upkeep of graves of the Confederate dead in its county.

(b) **Care of the aged.** For the support and maintenance of such residents of the county who are worthy, indigent aged inmates of the Old Ladies' Home of Jackson, Mississippi,

or of the Golden Age Nursing Home and Hospital for North Mississippi of Greenwood, Mississippi, and not exceeding Five Hundred Dollars (\$500.00) per annum for the support of the county's inmates of the Old Men's Home, located near Jackson, Mississippi, and in addition thereto a sum not exceeding Two Hundred Dollars (\$200.00) per annum to each of said institutions for their support and maintenance in the care of the aged.

(c) **King's Daughters.** To the King's Daughters in their respective counties for charities under their supervision.

(d) **Travelers Aid Society.** A sum of money not exceeding Fifteen Dollars (\$15.00) per month for the support of the organization known as the Travelers Aid Society, provided the same is nonsectarian.

(e) **Hospitals for pellagra sufferers.** For the establishment and maintenance of a hospital for the treatment of persons afflicted with pellagra. For this purpose the board may issue bonds and incur such indebtedness within the limits now authorized by law.

(f) **Tubercular hospitals.** For the establishment and maintenance of a hospital for the care and treatment of persons suffering from tuberculosis. In the execution of this power the board may select trustees to establish and operate said hospital. In counties having a population of more than forty thousand (40,000) people, as shown by the latest United States census, the board may set aside, appropriate and expend monies from the general fund for the purpose of aiding in the maintenance and support of hospitals maintained and operated in such county for the care and treatment of persons suffering from tuberculosis. The monies shall be expended by the board through such trustees, not less than three (3) and not more than five (5), to be elected by the board of supervisors annually. The trustees shall file reports with the board at least once every six (6) months showing in detail all expenditures made by them and the number of patients which have been for the preceding period aided or cared for by the institution, and the board may otherwise require a strict accounting of the administration of said funds.

(g) **Same -- additional provisions.** The boards of supervisors of one or more counties are hereby authorized and empowered, in their discretion, separately or jointly, to acquire by gift, purchase or lease, real estate, for tubercular

hospital purposes, and to own, erect, build, establish, maintain, regulate and support a tubercular hospital and to remodel buildings on such property to be used for such hospital purposes.

In the event the boards of supervisors of two (2) or more counties agree to cooperate in establishing and maintaining such hospital, the board of supervisors of each of said counties shall adopt a resolution agreeing to the proportionate part each county will contribute to the establishment and maintaining of such hospital.

Each county operating under the provisions of this subsection is hereby authorized and empowered to set aside, appropriate and expend monies from the general fund for the purpose of erecting, maintaining and operating such hospital.

(h) **Charity wards in hospitals.** A sum of money not exceeding One Hundred Dollars (\$100.00) per month to maintain a charity ward or wards in any hospital in their respective counties, or in the event there shall be no hospital in such county, then a like sum, in their discretion, to maintain a charity ward or wards in any hospital in any adjoining county receiving and treating patients from such county having no hospital.

(i) **Same -- coast counties.** The several counties of this state bordering on the tidewater of the Gulf of Mexico are hereby authorized and empowered, in the discretion of the proper authorities thereof, to appropriate such a sum of money as said authorities shall deem reasonable, to provide and maintain a charity ward or wards, in any of the hospitals in said counties, or, in the discretion of said authorities, to make and enter into contracts with any such hospitals for the treatment and care in such hospitals of the indigent sick of said counties, and to pay therefor out of the general fund of such counties such sum or sums as shall be a reasonable and just compensation to said hospital. However, the board of supervisors of any county mentioned herein may, in its discretion, make and enter into contracts with any hospital in any adjoining county receiving and treating patients from the respective counties mentioned herein in such hospitals of the indigent sick of said counties, mentioned herein, and to pay therefor out of the general fund of such county, such sum or sums that shall be reasonable and just to said hospitals.

(j) **Public libraries.** A sum not to exceed One Thousand Dollars (\$1,000.00) per annum toward the support and maintenance of one or more public libraries situated in the county. In any county whose total assessed valuation, including railroads and all public utilities, is more than Eighteen Million Dollars (\$18,000,000.00) the board, in its discretion, may appropriate a sum not to exceed Three Thousand Dollars (\$3,000.00) per annum for public libraries.

The board may also give or donate any legislative journals, constitutional convention journals, printed official reports of any state or county officers, official reports of departments, bureaus or officers of the United States, and copies of the acts of the Legislature or laws of Mississippi now or hereafter in the county library of such county and not needed, in the opinion of the board in the county library (but not including any Mississippi reports and not including any acts of the Legislature or laws of the state, unless such acts or laws be more than twenty (20) years old) to any library or library association or foundation or organization maintaining a free public library for reference or otherwise, provided such library, association, foundation or organization owns free from encumbrance a fireproof library building located in this state, in which building said journals, reports, acts and laws may be and shall be deposited where received under this subsection and made accessible under reasonable regulations to the general public. Such library, association, foundation or organization shall not have the right to sell or otherwise dispose of said journals, reports, acts and laws. Said journals, reports, acts and laws may be returned to the county library from which received without expense to the county, or to the state library, without expense to the state, at any time by the library, association, foundation or organization receiving the same.

Any gift or donation made by the board of supervisors of any county under the authority of this subsection shall be evidenced by an order spread upon the minutes of said board. The county shall bear no expense in connection with any donation. The sheriff of the county, or the custodian of the county library, shall deliver to the representative of the library, association, foundation or organization entitled to receive the same any of said journals, reports, acts, laws and official publications in accordance with the directions contained in any order of the board of supervisors for the

delivery of the same, and shall take proper receipt from the party receiving the same, and shall deliver such receipt to the clerk of the board of supervisors of the county, and the board of supervisors shall have the said receipt entered in full on the minutes of the board.

Any library, association, foundation or organization receiving any gift or donation from any county under this subsection shall report in writing to the board of supervisors, from which such gifts or donations have been received every two (2) years, that the gifts and donations so received are still in the possession of the donee and are accessible to the general public. If any of the gifts or donations so received have been lost, destroyed or have otherwise disappeared, report thereof shall be made.

If any library, association, foundation or organization receiving gifts or donations under this subsection shall cease operating as a free public library or shall cease to be the owner of a fireproof building in which it keeps and maintains a free public library, for reference or otherwise, the said library, association, foundation or organization shall thereupon immediately return to the county library, without expense to the county, or to the state library, without expense to the state, any gifts or donations it may have received under this subsection.

(k) **Patriotic organizations and memorials.** A sum not to exceed Five Thousand Dollars (\$5,000.00) to build or aid any post of the American Legion, any chapter of the Daughters of the American Revolution, any chapter of the United Daughters of the Confederacy, or any post, unit or chapter of any patriotic organization within the county in building a memorial to the veterans of World War I and World War II; and a sum not to exceed* * * Five Thousand Dollars (\$5,000.00) to aid in defraying the cost of the erection of suitable memorials to deceased soldiers, sailors and marines of the late world wars. Such appropriation may be made, even though no provision has been made therefor in the county budget.

(l) **American Red Cross.** Any board of supervisors of any county in this state is hereby authorized and empowered, in its discretion, to donate annually, out of any monies in its respective treasury, to be drawn by warrant thereon, a sum not exceeding One Hundred Dollars (\$100.00) per million of

assessed valuation to the support of a local chapter of the American Red Cross.

(m) **St. Jude Hospital.** For the payment of mileage expense for transporting persons to St. Jude Hospital in Memphis, Tennessee, for treatment. The mileage shall be based on a round-trip basis from the patient's place of residence to St. Jude Hospital at the mileage rate set forth in Section 25-3-41.

(n) **Public museums.** For the support and maintenance of such public museums located in the county constituted under the provisions of Chapter 9, Title 39, Mississippi Code of 1972.

(o) **Domestic violence shelters.** The board of supervisors of any county in this state is hereby authorized and empowered, in its discretion, to donate annually out of any money in the county treasury, such sums as the board deems advisable to support any domestic violence shelter or rape crisis center operating within or serving its area. For the purposes of this section, "rape crisis center" means a place established to provide care, counseling and related services to victims of rape, attempted rape, sexual battery or attempted sexual battery.

(p) **Literacy programs.** The board of supervisors of any county in this state is hereby authorized and empowered, in its discretion, to donate out of the general fund of the county such sum of money as the board deems reasonable to any literacy program being conducted within the county.

(q) **Care of neglected children.** The board of supervisors of any county in this state, in its discretion, may donate annually out of any money in the county treasury such sums as the board deems advisable to support any residential group home for the abused, abandoned or neglected children which operates within or serves the county. For the purposes of this paragraph the term "residential group home" means a group residence established to provide care and counseling, and to serve as a home, for children who are the victims of abuse, neglect or abandonment.

(r) **Boys and Girls Club.** To any chartered chapter of the Boys and Girls Clubs of America located within the county, out of any funds in the county treasury, provided that the cumulative sum of donations to all chapters within the county

does not exceed the amount generated in the county by one-fourth ($\frac{1}{4}$) mill on all of the taxable property within the county, during the fiscal year in which the donations are made. Nothing in this paragraph authorizes the imposition of additional tax.

(s) **Mississippi Burn Care Fund.** To the Mississippi Burn Care Fund, subject to the limitations specified in Section 21-19-58.

(t) **Court Appointed Special Advocates.** To any chapter of the Court Appointed Special Advocates (CASA), out of any funds in the county treasury, provided that the cumulative sum of donations to a chapter does not exceed the amount generated in the county by one-fourth ($\frac{1}{4}$) mill on all of the taxable property within the county, during the fiscal year in which the donations are made. Nothing in this paragraph authorizes the imposition of additional tax.

(u) **National Voluntary Organizations Active in Disaster (NVOAD).** To a local chapter of NVOAD, whether in-kind contributions or out of any funds in the county treasury, provided that the cumulative sum of donations to a local NVOAD does not exceed the amount generated in the county by one-fourth ($\frac{1}{4}$) mill on all of the taxable property within the county during the fiscal year in which the donations are made. Nothing in this paragraph authorizes the imposition of additional tax.

(v) **Farmers' markets.** The board of supervisors of any county in this state, in its discretion, may donate annually out of any money in the county treasury, such sums as the board deems advisable to support any farmers' market that is certified by the Mississippi Department of Agriculture and Commerce and operating within the county, not to exceed the amount that would be generated from the levy of a one-fourth ($\frac{1}{4}$) mill ad valorem tax upon all taxable property in the county.

(w) **Young Men's Christian Association (YMCA).** To any chartered chapter of the YMCA located within the county, out of any funds in the county treasury, provided that the cumulative sum of donations to all chapters within the county does not exceed the amount generated in the county by one-fourth ($\frac{1}{4}$) mill on all of the taxable property within the county, during the fiscal year in which the donations are

made. Nothing in this paragraph authorizes the imposition of additional tax.

SECTION 2. Section 19-5-73, Mississippi Code of 1972, is brought forward as follows:

19-5-73. The board of supervisors of each county may expend monies from the general fund, not exceeding the amount that would be generated from the levy of a one-fourth ($\frac{1}{4}$) mill ad valorem tax upon all taxable property in the county, for the purpose of providing funds to be expended to establish, maintain and operate farmers' markets and facilities that are certified by the Mississippi Department of Agriculture and Commerce and operating within the county to assist in the disposal and sale of farm and other food products in the interest of farmers, consumers and the general public.

SECTION 3. Section 21-19-67, Mississippi Code of 1972, is amended as follows:

21-19-67. The governing authority of any municipality in the state, in its discretion, is authorized to donate annually, out of any funds in the municipal treasury, to :

(a) Boys and Girls Club. Any chartered chapter of the Boys and Girls Clubs of America located within the municipality, provided that the cumulative sum of donations to all chapters within the municipality does not exceed the amount generated in the municipality by one-fourth ($\frac{1}{4}$) mill on all of the taxable property within the municipality, during the fiscal year in which the donations are made. Nothing in this* * * paragraph authorizes the imposition of additional tax.

(b) Young Men's Christian Association (YMCA). Any chartered chapter of the YMCA located within the municipality, out of any funds in the treasury of the municipality, provided that the cumulative sum of donations to all chapters within the municipality does not exceed the amount generated in the municipality by one-fourth ($\frac{1}{4}$) mill on all of the taxable property within the municipality, during the fiscal year in which the donations are made. Nothing in this paragraph authorizes the imposition of additional tax.

(c) Farmers' markets. Any farmers' market that is certified by the Mississippi Department of Agriculture and Commerce and operating within the municipality, not to exceed the amount that would be generated from the levy of a one-fourth ($\frac{1}{4}$) mill ad valorem tax upon all taxable property in the municipality.

2013 GENERAL LAWS OF MISSISSIPPI HB 1515

SECTION 4. Section 21-19-69, Mississippi Code of 1972, is brought forward as follows:

21-19-69. The governing authorities of any municipality of this state, in their discretion, may donate annually out of any money in the municipal treasury, such sums as deemed advisable to support any farmers' market that is certified by the Mississippi Department of Agriculture and Commerce and operating within the municipality, not to exceed the amount that would be generated from the levy of a one-fourth ($\frac{1}{4}$) mill ad valorem tax upon all taxable property in the municipality.

SECTION 5. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

House Bill 1550

Description: Memorial bridge; designate certain bridge in Adams County as “Veterans Memorial Bridge”.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: Passage

Chapter Number: 377

History of Actions:

- | | | | |
|----|-------|-----|---|
| 1 | 01/21 | (H) | Referred To Transportation |
| 2 | 02/05 | (H) | Title Suff Do Pass As Amended |
| 3 | 02/07 | (H) | Amended |
| 4 | 02/07 | (H) | Passed As Amended {Vote} |
| 5 | 02/12 | (H) | Transmitted To Senate |
| 6 | 02/12 | (S) | Referred To Highways and Transportation |
| 7 | 02/26 | (S) | Title Suff Do Pass |
| 8 | 03/07 | (S) | Passed {Vote} |
| 9 | 03/08 | (S) | Transmitted To House |
| 10 | 03/12 | (H) | Enrolled Bill Signed |
| 11 | 03/12 | (S) | Enrolled Bill Signed |
| 12 | 03/20 | | Approved by Governor |

Amendments:

[H] Committee Amendment No 1 *Adopted* Voice Vote

----- **Additional Information** -----

House Committee: Transportation

Senate Committee: Highways and Transportation

Principal Author: Johnson

Additional Authors: Scott, Crawford

Title: AN ACT TO DESIGNATE A CERTAIN BRIDGE IN ADAMS COUNTY AS THE “VETERANS MEMORIAL BRIDGE”; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI HB 1550

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Transportation

By: Representatives Johnson, Scott, Crawford

House Bill 1550

(As Sent to Governor)

AN ACT TO DESIGNATE A CERTAIN BRIDGE IN ADAMS COUNTY AS THE "VETERANS MEMORIAL BRIDGE"; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. (1) That flyover bridge in the Mississippi Department of Transportation Project at the intersection of U.S. Highway 61 and Devereaux Drive in the City of Natchez in Adams County is designated and shall be known as the "Veterans Memorial Bridge."

(2) The Mississippi Department of Transportation shall erect and maintain an appropriate plaque at each end of the bridge, and suitable markers along and approaching the bridge, reflecting its name.

SECTION 2. This act shall take effect and be in force from and after its passage.

Mississippi Legislature

2013 Regular Session

Senate Bill 2039

Description: Memorial highway; designate a portion of MS 25 and MS 15 in Louisville as “Blue Star Memorial Highway.”

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: Passage

Chapter Number: 315

History of Actions:

- | | | | |
|----|-------|-----|---|
| 1 | 01/11 | (S) | Referred To Highways and Transportation |
| 2 | 02/04 | (S) | Title Suff Do Pass |
| 3 | 02/06 | (S) | Passed {Vote} |
| 4 | 02/07 | (S) | Transmitted To House |
| 5 | 02/21 | (H) | Referred To Transportation |
| 6 | 02/26 | (H) | Title Suff Do Pass |
| 7 | 02/28 | (H) | Passed {Vote} |
| 8 | 03/01 | (H) | Transmitted To Senate |
| 9 | 03/04 | (S) | Enrolled Bill Signed |
| 10 | 03/04 | (H) | Enrolled Bill Signed |
| 11 | 03/07 | | Approved by Governor |

----- Additional Information -----

Senate Committee: Highways and Transportation

House Committee: Transportation

Principal Author: Ward

Additional Authors: Jackson (15th), Jackson (32nd)

Title: AN ACT TO DESIGNATE A PORTION OF MISSISSIPPI HIGHWAY 25 AND MISSISSIPPI HIGHWAY 15 WITHIN THE CORPORATE LIMITS OF THE CITY OF LOUISVILLE, MISSISSIPPI, AS “BLUE STAR MEMORIAL HIGHWAY”; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI SB 2039

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Highways and Transportation

By: Senator(s) Ward, Jackson (15th), Jackson (32nd)

Senate Bill 2039

(As Sent to Governor)

AN ACT TO DESIGNATE A PORTION OF MISSISSIPPI HIGHWAY 25 AND MISSISSIPPI HIGHWAY 15 WITHIN THE CORPORATE LIMITS OF THE CITY OF LOUISVILLE, MISSISSIPPI, AS "BLUE STAR MEMORIAL HIGHWAY"; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. (1) That portion of Mississippi Highway 25 and Mississippi 15 that converges and overlaps within the corporate limits of the City of Louisville, Mississippi, is designated as "Blue Star Memorial Highway" in honor and in gratitude and appreciation for the contributions and sacrifices of the Armed Forces that have defended the United States of America.

(2) The Mississippi Department of Transportation shall erect suitable markers along that portion of highway described in subsection (1) of this section.

SECTION 2. This act shall take effect and be in force from and after its passage.

Mississippi Legislature

2013 Regular Session

Senate Bill 2040

Description: Memorial highways; designate Mississippi Highway 6 in Lee County as the "Military Order of the Purple Heart Highway."

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2013

Chapter Number: 317

History of Actions:

- | | | | |
|----|-------|-----|---|
| 1 | 01/11 | (S) | Referred To Highways and Transportation |
| 2 | 02/04 | (S) | Title Suff Do Pass |
| 3 | 02/06 | (S) | Passed {Vote} |
| 4 | 02/07 | (S) | Transmitted To House |
| 5 | 02/21 | (H) | Referred To Transportation |
| 6 | 02/26 | (H) | Title Suff Do Pass |
| 7 | 02/28 | (H) | Passed {Vote} |
| 8 | 03/01 | (H) | Transmitted To Senate |
| 9 | 03/04 | (S) | Enrolled Bill Signed |
| 10 | 03/04 | (H) | Enrolled Bill Signed |
| 11 | 03/07 | | Approved by Governor |

----- Additional Information -----

Senate Committee: Highways and Transportation

House Committee: Transportation

Principal Author: Collins

Title: AN ACT TO DESIGNATE MISSISSIPPI HIGHWAY 6 WITHIN LEE COUNTY, MISSISSIPPI, AS THE "MILITARY ORDER OF THE PURPLE HEART HIGHWAY"; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI SB 2040

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Highways and Transportation

By: Senator(s) Collins

Senate Bill 2040

(As Sent to Governor)

AN ACT TO DESIGNATE MISSISSIPPI HIGHWAY 6 WITHIN LEE COUNTY, MISSISSIPPI, AS THE "MILITARY ORDER OF THE PURPLE HEART HIGHWAY"; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. (1) That segment of Mississippi Highway 6 within Lee County, Mississippi, is designated and shall be known as the "Military Order of the Purple Heart Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the highway.

SECTION 2. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

Senate Bill 2042

Description: Scenic byway; create the “Noxubee Hills Route.”

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2013

Chapter Number: 318

History of Actions:

- | | | | |
|----|-------|-----|---|
| 1 | 01/11 | (S) | Referred To Highways and Transportation |
| 2 | 02/04 | (S) | Title Suff Do Pass |
| 3 | 02/06 | (S) | Passed {Vote} |
| 4 | 02/07 | (S) | Transmitted To House |
| 5 | 02/21 | (H) | Referred To Transportation |
| 6 | 02/27 | (H) | Title Suff Do Pass |
| 7 | 02/28 | (H) | Passed {Vote} |
| 8 | 03/01 | (H) | Transmitted To Senate |
| 9 | 03/04 | (S) | Enrolled Bill Signed |
| 10 | 03/04 | (H) | Enrolled Bill Signed |
| 11 | 03/07 | | Approved by Governor |

----- **Additional Information** -----

Senate Committee: Highways and Transportation

House Committee: Transportation

Principal Author: Jackson (15th)

Additional Authors: Jackson (32nd), Ward

Title: AN ACT TO DESIGNATE CERTAIN HIGHWAYS AND ROADS IN CHOCTAW, WINSTON AND NOXUBEE COUNTIES IN MISSISSIPPI AS AN OFFICIAL MISSISSIPPI SCENIC BYWAY TO BE KNOWN AS THE “NOXUBEE HILLS ROUTE”; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI SB 2042

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Highways and Transportation

By: Senator(s) Jackson (15th), Jackson (32nd), Ward

Senate Bill 2042

(As Sent to Governor)

AN ACT TO DESIGNATE CERTAIN HIGHWAYS AND ROADS IN CHOCTAW, WINSTON AND NOXUBEE COUNTIES IN MISSISSIPPI AS AN OFFICIAL MISSISSIPPI SCENIC BYWAY TO BE KNOWN AS THE "NOXUBEE HILLS ROUTE"; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. The following highways and roads located in Choctaw, Winston and Noxubee Counties in Mississippi are hereby designated as an official Mississippi Scenic Byway to be known as the "Noxubee Hills Route" pursuant to Section 65-41-1 et seq.:

.... The Noxubee Hills Route begins at the intersection of the Choctaw Lake Road with Mississippi Highway 15 in the SE 1/4, S4, T16N, R11E, Choctaw County, Mississippi, and runs in an easterly and northeasterly direction along the said Choctaw Lake Road to cross the dam of Choctaw Lake, located in the Tombigbee National Forest, to the intersection with the Webster Road in the Northeast 1/4 of S2, T16N, R11E, Choctaw County. Thence, the route runs in an easterly direction along the Choctaw Lake Road to intersect the Choctaw/Winston County line near the Northwest corner of S6, T16N, R12E, in Winston County where the route becomes known as the Gumbranch-Ackerman Road in Winston County. Thence, the route runs in a southeasterly direction along the Gumbranch-Ackerman Road to intersect the Sturgis Road in the West 1/2 of S15, T16N, R12E, in Winston County. Thence, the route runs in a southeasterly direction along the Gumbranch-Hwy 25 Road to an intersection with Mississippi Hwy 25 at or near the Northwest corner of S28, T16N, R13E, in Winston County. Thence, the route runs in an easterly and northeasterly direction along the Bluff Lake Road to the Winston/Noxubee County line on the West line of S6, T16N, R15E, in Noxubee County. Thence, the route runs in an easterly direction along a Noxubee County route (CR-234) to intersect with the Levee (CR-267) and Bluff Lake (CR-266) Roads near the West line of S4, T16N, R15E, in Noxubee County

and in the Sam D. Hamilton Noxubee National Wildlife Refuge. Thence, the route runs in a southerly direction along the Bluff Lake Road (CR-266) to intersect the Lynn Creek Road (CR-223) at or near the North line of S21, T16N, R15E, in Noxubee County. Thence, the route runs in an easterly direction along Lynn Creek Road (CR-223) to ultimately intersect US Hwy 45 in Brooksville, Mississippi, at or near the Northeast corner of S20, T16N, R17E, in Noxubee County, Mississippi. The Noxubee Hills Route runs approximately forty three (43) miles and serves parts of Choctaw, Winston, and Noxubee Counties in Mississippi.

SECTION 2. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

Senate Bill 2047

Description: Municipal and county law enforcement officer; allow spouse of officer killed in the line of duty to purchase officer's sidearm.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: Passage

Chapter Number: 381

History of Actions:

1	01/11	(S)	Referred To Judiciary, Division A;
Appropriations			
2	01/29	(S)	DR - TSDP: JA To AP
3	01/31	(S)	Title Suff Do Pass
4	02/06	(S)	Passed {Vote}
5	02/07	(S)	Transmitted To House
6	02/21	(H)	Referred To Judiciary B
7	03/04	(H)	Title Suff Do Pass
8	03/05	(H)	Read the Third Time
9	03/12	(H)	Passed {Vote}
10	03/13	(H)	Transmitted To Senate
11	03/14	(S)	Enrolled Bill Signed
12	03/14	(H)	Enrolled Bill Signed
13	03/20		Approved by Governor

Code Section: A 045-0009-0131

----- **Additional Information** -----

Senate Committee: Judiciary, Division A, Appropriations

House Committee: Judiciary B

Principal Author: Hopson

Title: AN ACT TO AMEND SECTION 45-9-131, MISSISSIPPI CODE OF 1972, TO ALLOW THE SPOUSE OF A MUNICIPAL OR COUNTY LAW ENFORCEMENT

OFFICER KILLED IN THE LINE OF DUTY TO PURCHASE ONE SIDEARM ISSUED TO SUCH LAW ENFORCEMENT OFFICER; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI SB 2047

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Judiciary, Division A; Appropriations
By: Senator(s) Hopson

Senate Bill 2047

(As Sent to Governor)

AN ACT TO AMEND SECTION 45-9-131, MISSISSIPPI CODE OF 1972, TO ALLOW THE SPOUSE OF A MUNICIPAL OR COUNTY LAW ENFORCEMENT OFFICER KILLED IN THE LINE OF DUTY TO PURCHASE ONE SIDEARM ISSUED TO SUCH LAW ENFORCEMENT OFFICER; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 45-9-131, Mississippi Code of 1972, is amended as follows:

45-9-131. Upon approval of the governing* * * authority of the municipality or county, a member of any municipal or county law enforcement agency who retires under any state retirement system or the spouse of a law enforcement officer who is killed in the line of duty may be allowed to purchase as his or her personal property one (1) sidearm which was issued to* * * the law enforcement officer by the law enforcement agency from which he or she retired or by whom he or she was employed at the time of death. The governing* * * authority of the municipality or county shall determine the amount to be paid for the firearm by the retiring member of the law enforcement agency or the spouse of the law enforcement officer.

SECTION 2. This act shall take effect and be in force from and after its passage.

Mississippi Legislature

2013 Regular Session

Senate Bill 2048

Description: Bow hunting; allow the use of crossbow and bow and arrow during any open season on deer.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Three/Fifths

Effective date: July 1, 2013

Chapter Number: 343

History of Actions:

- | | | |
|----|-------|---|
| 1 | 01/11 | (S) Referred To Wildlife, Fisheries and Parks |
| 2 | 01/28 | (S) Title Suff Do Pass Comm Sub |
| 3 | 02/06 | (S) Committee Substitute Adopted |
| 4 | 02/06 | (S) Amended |
| 5 | 02/06 | (S) Passed As Amended {Vote} |
| 6 | 02/11 | (S) Transmitted To House |
| 7 | 02/20 | (H) Referred To Wildlife, Fisheries and Parks |
| 8 | 02/28 | (H) Title Suff Do Pass As Amended |
| 9 | 02/28 | (H) Amended |
| 10 | 02/28 | (H) Passed As Amended {Vote} |
| 11 | 03/01 | (H) Returned For Concurrence |
| 12 | 03/07 | (S) Concurred in Amend From House {Vote} |
| 13 | 03/11 | (S) Enrolled Bill Signed |
| 14 | 03/11 | (H) Enrolled Bill Signed |
| 15 | 03/18 | Approved by Governor |

Amendments:

[S] Amendment No 1 (Cmte Sub)*Adopted* Voice Vote

[H] Committee Amendment No 1 *Adopted* Voice Vote

Amendment Report for Senate Bill No. 2048

Code Section: A 049-0007-0038

----- Additional Information -----

Senate Committee: Wildlife, Fisheries and Parks

House Committee: Wildlife, Fisheries and Parks

Principal Author: Ward

Additional Authors: Gollott, Massey, Moran

Title: AN ACT TO AMEND SECTION 49-7-38, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT PERSONS EXEMPT FROM LICENSING AND PERSONS LICENSED TO HUNT DEER WITH A BOW OR PRIMITIVE WEAPON MAY HUNT WITH A BOW DURING ANY OPEN SEASON ON DEER; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI SB 2048

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Wildlife, Fisheries and Parks

By: Senator(s) Ward, Gollott, Massey, Moran

Senate Bill 2048

(As Sent to Governor)

AN ACT TO AMEND SECTION 49-7-38, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT PERSONS EXEMPT FROM LICENSING AND PERSONS LICENSED TO HUNT DEER WITH A BOW OR PRIMITIVE WEAPON MAY HUNT WITH A BOW DURING ANY OPEN SEASON ON DEER; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 49-7-38, Mississippi Code of 1972, is amended as follows:

49-7-38. (1)* * * Any person who is exempt from having a hunting license and any person licensed to hunt deer with a bow or primitive weapon may hunt with a crossbow or bow and arrow during any open season on deer, turkey or small game.

(2)* * * When hunting during any gun season on deer, the hunter must comply with Section 49-7-31.1.

SECTION 2. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

Senate Bill 2070

Description: Notice of state agency meetings; shall be published on the DFA Transparency website.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2013

Chapter Number: 388

History of Actions:

1	01/14	(S) Referred To Accountability, Efficiency, Transparency
2	01/30	(S) Title Suff Do Pass
3	02/12	(S) Passed {Vote}
4	02/13	(S) Transmitted To House
5	02/20	(H) Referred To S.C. Accountblty/Efficiency/Transparency
6	02/27	(H) Title Suff Do Pass
7	03/06	(H) Passed {Vote}
8	03/06	(H) Motion to Reconsider Entered (Brown (66th), Turner, Crawford)
9	03/11	(H) Motion to Reconsider Tabled
10	03/11	(H) Transmitted To Senate
11	03/13	(S) Enrolled Bill Signed
12	03/14	(H) Enrolled Bill Signed
13	03/20	Approved by Governor

Code Section: A 025-0041-0013

----- Additional Information -----

Senate Committee: Accountability, Efficiency, Transparency

House Committee: S.C. Accountblty/Efficiency/Transparency

Principal Author: Blount

Title: AN ACT TO AMEND SECTION 25-41-13, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT NOTICE OF ANY REGULAR MEETING HELD BY A STATE AGENCY, OTHER THAN A LEGISLATIVE COMMITTEE, SHALL BE SUBMITTED TO THE DEPARTMENT OF FINANCE AND ADMINISTRATION AT LEAST 24 HOURS BEFORE THE MEETING IN ORDER TO BE POSTED ON THE DEPARTMENT'S SEARCHABLE WEBSITE CREATED BY THE MISSISSIPPI ACCOUNTABILITY AND TRANSPARENCY ACT; TO CREATE NEW SECTION 27-104-163, MISSISSIPPI CODE OF 1972, TO REQUIRE THE DEPARTMENT OF FINANCE AND ADMINISTRATION TO PUBLISH SUCH NOTICES ON ITS SEARCHABLE WEBSITE; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI SB 2070

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Accountability, Efficiency, Transparency

By: Senator(s) Blount

Senate Bill 2070

(As Sent to Governor)

AN ACT TO AMEND SECTION 25-41-13, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT NOTICE OF ANY REGULAR MEETING HELD BY A STATE AGENCY, OTHER THAN A LEGISLATIVE COMMITTEE, SHALL BE SUBMITTED TO THE DEPARTMENT OF FINANCE AND ADMINISTRATION AT LEAST 24 HOURS BEFORE THE MEETING IN ORDER TO BE POSTED ON THE DEPARTMENT'S SEARCHABLE WEBSITE CREATED BY THE MISSISSIPPI ACCOUNTABILITY AND TRANSPARENCY ACT; TO CREATE NEW SECTION 27-104-163, MISSISSIPPI CODE OF 1972, TO REQUIRE THE DEPARTMENT OF FINANCE AND ADMINISTRATION TO PUBLISH SUCH NOTICES ON ITS SEARCHABLE WEBSITE; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 25-41-13, Mississippi Code of 1972, is amended as follows:

25-41-13. (1) Any public body which holds its meetings at such times and places and by such procedures as are specifically prescribed by statute shall continue to do so and no additional notice of such meetings shall be required except that a notice of the place, date, hour and subject matter of any recess meeting, adjourned meeting, interim meeting or any called special meeting shall be posted within one (1) hour after such meeting is called in a prominent place available to examination and inspection by the general public in the building in which the public body normally meets. A copy of the notice shall be made a part of the minutes or other permanent official records of the public body.

(2) Any public body, other than a legislative committee, which does not have statutory provisions prescribing the times and places and the procedures by which its meetings are to be held shall, at its first regular or special meeting after the effective date of this chapter spread upon its minutes the times and places and the procedures by which all of its meetings are to be held.

2013 GENERAL LAWS OF MISSISSIPPI SB 2070

(3) Notice of any regular meeting held by a state agency, other than a legislative committee, shall be submitted to the Department of Finance and Administration at least twenty-four (24) hours before the meeting in order to be posted on the department's searchable website created by the Mississippi Accountability and Transparency Act, Section 27-104-152 et seq. For purposes of this subsection, the term "state agency" means an agency, department, institution, board, commission, council, office, bureau, division, committee or subcommittee of the state. However, the term "state agency" does not include institutions of higher learning, community and junior colleges, counties or municipalities.

(***4) During a regular or special session of the Mississippi Legislature, notice of meetings of all committees, other than conference committees, shall be given by announcement on the loudspeaker during sessions of the House of Representatives or Senate or by posting on a bulletinboard provided for that purpose by each body.

(***5) When not in session, the meeting times and places of all committees shall be kept by the Clerk of the House of Representatives as to House committees and by the Secretary of the Senate as to Senate committees, and shall be available at all times during regular working hours to the public and news media.

SECTION 2. The following shall be codified as Section 27-104-163, Mississippi Code of 1972:

27-104-163. The Department of Finance and Administration shall publish on its searchable website notice of any regular meeting held by a state agency, other than a legislative committee, in accordance with Section 25-41-13. For purposes of this section, the term "state agency" means an agency, department, institution, board, commission, council, office, bureau, division, committee or subcommittee of the state. However, the term "state agency" does not include institutions of higher learning, community and junior colleges, counties or municipalities.

SECTION 3. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

Senate Bill 2073

Description: Certified purchasing offices; revise decision procedure for the best value calculation.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Three/Fifths

Effective date: July 1, 2013

Chapter Number: 390

History of Actions:

1	01/14	(S) Referred To Accountability, Efficiency, Transparency
2	01/31	(S) Title Suff Do Pass Comm Sub
3	02/12	(S) Committee Substitute Adopted
4	02/12	(S) Amended
5	02/12	(S) Passed As Amended {Vote}
6	02/14	(S) Transmitted To House
7	02/21	(H) Referred To Appropriations
8	02/28	(H) Title Suff Do Pass
9	03/11	(H) Passed {Vote}
10	03/12	(H) Motion to Reconsider Entered (Perkins, Frierson, Huddleston (15th))
11	03/13	(H) Motion to Reconsider Tabled
12	03/13	(H) Transmitted To Senate
13	03/14	(S) Enrolled Bill Signed
14	03/14	(H) Enrolled Bill Signed
15	03/20	Approved by Governor

Amendments:

[S] Amendment No 1 (Cmte Sub) *Adopted* Voice Vote

Code Section: A 031-0007-0013

----- **Additional Information** -----

Senate Committee: Accountability, Efficiency, Transparency

House Committee: Appropriations

Principal Author: Carmichael

Additional Authors: Burton

Title: AN ACT TO AMEND SECTION 31-7-13, MISSISSIPPI CODE OF 1972, TO AUTHORIZE CERTIFIED PURCHASING OFFICES TO INCLUDE THE LOCATION OF A BIDDER'S LOCAL OFFICE AND INVENTORY IN THE BEST VALUE CALCULATION; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI SB 2073

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Accountability, Efficiency, Transparency

By: Senator(s) Carmichael, Burton

Senate Bill 2073

(As Sent to Governor)

AN ACT TO AMEND SECTION 31-7-13, MISSISSIPPI CODE OF 1972, TO AUTHORIZE CERTIFIED PURCHASING OFFICES TO INCLUDE THE LOCATION OF A BIDDER'S LOCAL OFFICE AND INVENTORY IN THE BEST VALUE CALCULATION; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 31-7-13, Mississippi Code of 1972, is amended as follows:

31-7-13. All agencies and governing authorities shall purchase their commodities and printing; contract for garbage collection or disposal; contract for solid waste collection or disposal; contract for sewage collection or disposal; contract for public construction; and contract for rentals as herein provided.

(a) **Bidding procedure for purchases not over \$5,000.00.** Purchases which do not involve an expenditure of more than Five Thousand Dollars (\$5,000.00), exclusive of freight or shipping charges, may be made without advertising or otherwise requesting competitive bids. However, nothing contained in this paragraph (a) shall be construed to prohibit any agency or governing authority from establishing procedures which require competitive bids on purchases of Five Thousand Dollars (\$5,000.00) or less.

(b) **Bidding procedure for purchases over \$5,000.00 but not over \$50,000.00.** Purchases which involve an expenditure of more than Five Thousand Dollars (\$5,000.00) but not more than Fifty Thousand Dollars (\$50,000.00), exclusive of freight and shipping charges may be made from the lowest and best bidder without publishing or posting advertisement for bids, provided at least two (2) competitive written bids have been obtained. Any state agency or community/junior college purchasing commodities or procuring construction pursuant to this paragraph (b) may authorize its purchasing agent, or his designee, to accept the lowest competitive written

bid under Fifty Thousand Dollars (\$50,000.00). Any governing authority purchasing commodities pursuant to this paragraph (b) may authorize its purchasing agent, or his designee, with regard to governing authorities other than counties, or its purchase clerk, or his designee, with regard to counties, to accept the lowest and best competitive written bid. Such authorization shall be made in writing by the governing authority and shall be maintained on file in the primary office of the agency and recorded in the official minutes of the governing authority, as appropriate. The purchasing agent or the purchase clerk, or their designee, as the case may be, and not the governing authority, shall be liable for any penalties and/or damages as may be imposed by law for any act or omission of the purchasing agent or purchase clerk, or their designee, constituting a violation of law in accepting any bid without approval by the governing authority. The term "competitive written bid" shall mean a bid submitted on a bid form furnished by the buying agency or governing authority and signed by authorized personnel representing the vendor, or a bid submitted on a vendor's letterhead or identifiable bid form and signed by authorized personnel representing the vendor. "Competitive" shall mean that the bids are developed based upon comparable identification of the needs and are developed independently and without knowledge of other bids or prospective bids. Any bid item for construction in excess of Five Thousand Dollars (\$5,000.00) shall be broken down by components to provide detail of component description and pricing. These details shall be submitted with the written bids and become part of the bid evaluation criteria. Bids may be submitted by facsimile, electronic mail or other generally accepted method of information distribution. Bids submitted by electronic transmission shall not require the signature of the vendor's representative unless required by agencies or governing authorities.

(c) **Bidding procedure for purchases over \$50,000.00.**

(i) **Publication requirement.**

1. Purchases which involve an expenditure of more than Fifty Thousand Dollars (\$50,000.00), exclusive of freight and shipping charges, may be made from the lowest and best bidder after advertising for competitive bids once each week for two (2) consecutive weeks in a regular newspaper published in the county or municipality in which such agency or governing

authority is located. However, all American Recovery and Reinvestment Act projects in excess of Twenty-five Thousand Dollars (\$25,000.00) shall be bid. All references to American Recovery and Reinvestment Act projects in this section shall not apply to programs identified in Division B of the American Recovery and Reinvestment Act.

2. The purchasing entity may designate the method by which the bids will be received, including, but not limited to, bids sealed in an envelope, bids received electronically in a secure system, bids received via a reverse auction, or bids received by any other method that promotes open competition and has been approved by the Office of Purchasing and Travel. However, reverse auction shall not be used for any public contract for design or construction of public facilities, including buildings, roads and bridges.

3. The date as published for the bid opening shall not be less than seven (7) working days after the last published notice; however, if the purchase involves a construction project in which the estimated cost is in excess of Fifty Thousand Dollars (\$50,000.00), such bids shall not be opened in less than fifteen (15) working days after the last notice is published and the notice for the purchase of such construction shall be published once each week for two (2) consecutive weeks. However, all American Recovery and Reinvestment Act projects in excess of Twenty-five Thousand Dollars (\$25,000.00) shall be bid. For any projects in excess of Twenty-five Thousand Dollars (\$25,000.00) under the American Recovery and Reinvestment Act, publication shall be made one (1) time and the bid opening for construction projects shall not be less than ten (10) working days after the date of the published notice. The notice of intention to let contracts or purchase equipment shall state the time and place at which bids shall be received, list the contracts to be made or types of equipment or supplies to be purchased, and, if all plans and/or specifications are not published, refer to the plans and/or specifications on file. If there is no newspaper published in the county or municipality, then such notice shall be given by posting same at the courthouse, or for municipalities at the city hall, and at two (2) other public places in the county or municipality, and also by publication once each week for two (2) consecutive weeks in some newspaper having a general circulation in the county or municipality in the above-provided manner. On the same date that the notice

is submitted to the newspaper for publication, the agency or governing authority involved shall mail written notice to, or provide electronic notification to the main office of the Mississippi Procurement Technical Assistance Program under the Mississippi Development Authority that contains the same information as that in the published notice. Submissions received by the Mississippi Procurement Technical Assistance Program for projects funded by the American Recovery and Reinvestment Act shall be displayed on a separate and unique Internet Web page accessible to the public and maintained by the Mississippi Development Authority for the Mississippi Procurement Technical Assistance Program. Those American Recovery and Reinvestment Act related submissions shall be publicly posted within twenty-four (24) hours of receipt by the Mississippi Development Authority and the bid opening shall not occur until the submission has been posted for ten (10) consecutive days. The Department of Finance and Administration shall maintain information regarding contracts and other expenditures from the American Recovery and Reinvestment Act, on a unique Internet Web page accessible to the public. The Department of Finance and Administration shall promulgate rules regarding format, content and deadlines, unless otherwise specified by law, of the posting of award notices, contract execution and subsequent amendments, links to the contract documents, expenditures against the awarded contracts and general expenditures of funds from the American Recovery and Reinvestment Act. Within one (1) working day of the contract award, the agency or governing authority shall post to the designated Web page maintained by the Department of Finance and Administration, notice of the award, including the award recipient, the contract amount, and a brief summary of the contract in accordance with rules promulgated by the department. Within one (1) working day of the contract execution, the agency or governing authority shall post to the designated Web page maintained by the Department of Finance and Administration a summary of the executed contract and make a copy of the appropriately redacted contract documents available for linking to the designated Web page in accordance with the rules promulgated by the department. The information provided by the agency or governing authority shall be posted to the Web page for the duration of the American Recovery and Reinvestment Act funding or until the project is completed, whichever is longer.

(ii) **Bidding process amendment procedure.** If all plans and/or specifications are published in the notification, then the plans and/or specifications may not be amended. If all plans and/or specifications are not published in the notification, then amendments to the plans/specifications, bid opening date, bid opening time and place may be made, provided that the agency or governing authority maintains a list of all prospective bidders who are known to have received a copy of the bid documents and all such prospective bidders are sent copies of all amendments. This notification of amendments may be made via mail, facsimile, electronic mail or other generally accepted method of information distribution. No addendum to bid specifications may be issued within two (2) working days of the time established for the receipt of bids unless such addendum also amends the bid opening to a date not less than five (5) working days after the date of the addendum.

(iii) **Filing requirement.** In all cases involving governing authorities, before the notice shall be published or posted, the plans or specifications for the construction or equipment being sought shall be filed with the clerk of the board of the governing authority. In addition to these requirements, a bid file shall be established which shall indicate those vendors to whom such solicitations and specifications were issued, and such file shall also contain such information as is pertinent to the bid.

(iv) **Specification restrictions.**

1. Specifications pertinent to such bidding shall be written so as not to exclude comparable equipment of domestic manufacture. However, if valid justification is presented, the Department of Finance and Administration or the board of a governing authority may approve a request for specific equipment necessary to perform a specific job. Further, such justification, when placed on the minutes of the board of a governing authority, may serve as authority for that governing authority to write specifications to require a specific item of equipment needed to perform a specific job. In addition to these requirements, from and after July 1, 1990, vendors of relocatable classrooms and the specifications for the purchase of such relocatable classrooms published by local school boards shall meet all pertinent regulations of the State Board of Education, including prior approval of such bid by the State Department of Education.

2. Specifications for construction projects may include an allowance for commodities, equipment, furniture, construction materials or systems in which prospective bidders are instructed to include in their bids specified amounts for such items so long as the allowance items are acquired by the vendor in a commercially reasonable manner and approved by the agency/governing authority. Such acquisitions shall not be made to circumvent the public purchasing laws.

(v) Agencies and governing authorities may establish secure procedures by which bids may be submitted via electronic means.

(d) Lowest and best bid decision procedure.

(i) **Decision procedure.** Purchases may be made from the lowest and best bidder. In determining the lowest and best bid, freight and shipping charges shall be included. Life-cycle costing, total cost bids, warranties, guaranteed buy-back provisions and other relevant provisions may be included in the best bid calculation. All best bid procedures for state agencies must be in compliance with regulations established by the Department of Finance and Administration. If any governing authority accepts a bid other than the lowest bid actually submitted, it shall place on its minutes detailed calculations and narrative summary showing that the accepted bid was determined to be the lowest and best bid, including the dollar amount of the accepted bid and the dollar amount of the lowest bid. No agency or governing authority shall accept a bid based on items not included in the specifications.

(ii) **Decision procedure for Certified Purchasing Offices.** In addition to the decision procedure set forth in paragraph (d)(i), Certified Purchasing Offices may also use the following procedure: Purchases may be made from the bidder offering the best value. In determining the best value bid, freight and shipping charges shall be included. Life-cycle costing, total cost bids, warranties, guaranteed buy-back provisions, documented previous experience, training costs and other relevant provisions including, but not limited to, a bidder having a local office and inventory located within the jurisdiction of the governing authority, may be included in the best value calculation. This provision shall authorize Certified Purchasing Offices to utilize a Request For Proposals (RFP) process when purchasing commodities. All best value procedures for state agencies must be in compliance

with regulations established by the Department of Finance and Administration. No agency or governing authority shall accept a bid based on items or criteria not included in the specifications.

(iii) **Decision procedure for Mississippi Landmarks.** In addition to the decision procedure set forth in paragraph (d) (i), where purchase involves renovation, restoration, or both, of the State Capitol Building or any other historical building designated for at least five (5) years as a Mississippi Landmark by the Board of Trustees of the Department of Archives and History under the authority of Sections 39-7-7 and 39-7-11, the agency or governing authority may use the following procedure: Purchases may be made from the lowest and best prequalified bidder. Prequalification of bidders shall be determined not less than fifteen (15) working days before the first published notice of bid opening. Prequalification criteria shall be limited to bidder's knowledge and experience in historical restoration, preservation and renovation. In determining the lowest and best bid, freight and shipping charges shall be included. Life-cycle costing, total cost bids, warranties, guaranteed buy-back provisions and other relevant provisions may be included in the best bid calculation. All best bid and prequalification procedures for state agencies must be in compliance with regulations established by the Department of Finance and Administration. If any governing authority accepts a bid other than the lowest bid actually submitted, it shall place on its minutes detailed calculations and narrative summary showing that the accepted bid was determined to be the lowest and best bid, including the dollar amount of the accepted bid and the dollar amount of the lowest bid. No agency or governing authority shall accept a bid based on items not included in the specifications.

(iv) **Construction project negotiations authority.** If the lowest and best bid is not more than ten percent (10%) above the amount of funds allocated for a public construction or renovation project, then the agency or governing authority shall be permitted to negotiate with the lowest bidder in order to enter into a contract for an amount not to exceed the funds allocated.

(e) **Lease-purchase authorization.** For the purposes of this section, the term "equipment" shall mean equipment, furniture and, if applicable, associated software and other

applicable direct costs associated with the acquisition. Any lease-purchase of equipment which an agency is not required to lease-purchase under the master lease-purchase program pursuant to Section 31-7-10 and any lease-purchase of equipment which a governing authority elects to lease-purchase may be acquired by a lease-purchase agreement under this paragraph (e). Lease-purchase financing may also be obtained from the vendor or from a third-party source after having solicited and obtained at least two (2) written competitive bids, as defined in paragraph (b) of this section, for such financing without advertising for such bids. Solicitation for the bids for financing may occur before or after acceptance of bids for the purchase of such equipment or, where no such bids for purchase are required, at any time before the purchase thereof. No such lease-purchase agreement shall be for an annual rate of interest which is greater than the overall maximum interest rate to maturity on general obligation indebtedness permitted under Section 75-17-101, and the term of such lease-purchase agreement shall not exceed the useful life of equipment covered thereby as determined according to the upper limit of the asset depreciation range (ADR) guidelines for the Class Life Asset Depreciation Range System established by the Internal Revenue Service pursuant to the United States Internal Revenue Code and regulations thereunder as in effect on December 31, 1980, or comparable depreciation guidelines with respect to any equipment not covered by ADR guidelines. Any lease-purchase agreement entered into pursuant to this paragraph (e) may contain any of the terms and conditions which a master lease-purchase agreement may contain under the provisions of Section 31-7-10(5), and shall contain an annual allocation dependency clause substantially similar to that set forth in Section 31-7-10(8). Each agency or governing authority entering into a lease-purchase transaction pursuant to this paragraph (e) shall maintain with respect to each such lease-purchase transaction the same information as required to be maintained by the Department of Finance and Administration pursuant to Section 31-7-10(13). However, nothing contained in this section shall be construed to permit agencies to acquire items of equipment with a total acquisition cost in the aggregate of less than Ten Thousand Dollars (\$10,000.00) by a single lease-purchase transaction. All equipment, and the purchase thereof by any lessor, acquired by lease-purchase under this paragraph and all lease-purchase payments with

respect thereto shall be exempt from all Mississippi sales, use and ad valorem taxes. Interest paid on any lease-purchase agreement under this section shall be exempt from State of Mississippi income taxation.

(f) **Alternate bid authorization.** When necessary to ensure ready availability of commodities for public works and the timely completion of public projects, no more than two (2) alternate bids may be accepted by a governing authority for commodities. No purchases may be made through use of such alternate bids procedure unless the lowest and best bidder cannot deliver the commodities contained in his bid. In that event, purchases of such commodities may be made from one (1) of the bidders whose bid was accepted as an alternate.

(g) **Construction contract change authorization.** In the event a determination is made by an agency or governing authority after a construction contract is let that changes or modifications to the original contract are necessary or would better serve the purpose of the agency or the governing authority, such agency or governing authority may, in its discretion, order such changes pertaining to the construction that are necessary under the circumstances without the necessity of further public bids; provided that such change shall be made in a commercially reasonable manner and shall not be made to circumvent the public purchasing statutes. In addition to any other authorized person, the architect or engineer hired by an agency or governing authority with respect to any public construction contract shall have the authority, when granted by an agency or governing authority, to authorize changes or modifications to the original contract without the necessity of prior approval of the agency or governing authority when any such change or modification is less than one percent (1%) of the total contract amount. The agency or governing authority may limit the number, manner or frequency of such emergency changes or modifications.

(h) **Petroleum purchase alternative.** In addition to other methods of purchasing authorized in this chapter, when any agency or governing authority shall have a need for gas, diesel fuel, oils and/or other petroleum products in excess of the amount set forth in paragraph (a) of this section, such agency or governing authority may purchase the commodity after having solicited and obtained at least two (2) competitive written bids, as defined in paragraph (b) of this section. If two (2)

competitive written bids are not obtained, the entity shall comply with the procedures set forth in paragraph (c) of this section. In the event any agency or governing authority shall have advertised for bids for the purchase of gas, diesel fuel, oils and other petroleum products and coal and no acceptable bids can be obtained, such agency or governing authority is authorized and directed to enter into any negotiations necessary to secure the lowest and best contract available for the purchase of such commodities.

(i) **Road construction petroleum products price adjustment clause authorization.** Any agency or governing authority authorized to enter into contracts for the construction, maintenance, surfacing or repair of highways, roads or streets, may include in its bid proposal and contract documents a price adjustment clause with relation to the cost to the contractor, including taxes, based upon an industry-wide cost index, of petroleum products including asphalt used in the performance or execution of the contract or in the production or manufacture of materials for use in such performance. Such industry-wide index shall be established and published monthly by the Mississippi Department of Transportation with a copy thereof to be mailed, upon request, to the clerks of the governing authority of each municipality and the clerks of each board of supervisors throughout the state. The price adjustment clause shall be based on the cost of such petroleum products only and shall not include any additional profit or overhead as part of the adjustment. The bid proposals or document contract shall contain the basis and methods of adjusting unit prices for the change in the cost of such petroleum products.

(j) **State agency emergency purchase procedure.** If the governing board or the executive head, or his designee, of any agency of the state shall determine that an emergency exists in regard to the purchase of any commodities or repair contracts, so that the delay incident to giving opportunity for competitive bidding would be detrimental to the interests of the state, then the provisions herein for competitive bidding shall not apply and the head of such agency shall be authorized to make the purchase or repair. Total purchases so made shall only be for the purpose of meeting needs created by the emergency situation. In the event such executive head is responsible to an agency board, at the meeting next following the emergency purchase, documentation of the purchase, including

a description of the commodity purchased, the purchase price thereof and the nature of the emergency shall be presented to the board and placed on the minutes of the board of such agency. The head of such agency, or his designee, shall, at the earliest possible date following such emergency purchase, file with the Department of Finance and Administration (i) a statement explaining the conditions and circumstances of the emergency, which shall include a detailed description of the events leading up to the situation and the negative impact to the entity if the purchase is made following the statutory requirements set forth in paragraph (a), (b) or (c) of this section, and (ii) a certified copy of the appropriate minutes of the board of such agency, if applicable.

(k) Governing authority emergency purchase procedure.

If the governing authority, or the governing authority acting through its designee, shall determine that an emergency exists in regard to the purchase of any commodities or repair contracts, so that the delay incident to giving opportunity for competitive bidding would be detrimental to the interest of the governing authority, then the provisions herein for competitive bidding shall not apply and any officer or agent of such governing authority having general or special authority therefor in making such purchase or repair shall approve the bill presented therefor, and he shall certify in writing thereon from whom such purchase was made, or with whom such a repair contract was made. At the board meeting next following the emergency purchase or repair contract, documentation of the purchase or repair contract, including a description of the commodity purchased, the price thereof and the nature of the emergency shall be presented to the board and shall be placed on the minutes of the board of such governing authority.

(l) Hospital purchase, lease-purchase and lease authorization.

(i) The commissioners or board of trustees of any public hospital may contract with such lowest and best bidder for the purchase or lease-purchase of any commodity under a contract of purchase or lease-purchase agreement whose obligatory payment terms do not exceed five (5) years.

(ii) In addition to the authority granted in subparagraph (i) of this paragraph (l), the commissioners or board of trustees is authorized to enter into contracts

for the lease of equipment or services, or both, which it considers necessary for the proper care of patients if, in its opinion, it is not financially feasible to purchase the necessary equipment or services. Any such contract for the lease of equipment or services executed by the commissioners or board shall not exceed a maximum of five (5) years' duration and shall include a cancellation clause based on unavailability of funds. If such cancellation clause is exercised, there shall be no further liability on the part of the lessee. Any such contract for the lease of equipment or services executed on behalf of the commissioners or board that complies with the provisions of this subparagraph (ii) shall be excepted from the bid requirements set forth in this section.

(m) **Exceptions from bidding requirements.** Excepted from bid requirements are:

(i) **Purchasing agreements approved by department.** Purchasing agreements, contracts and maximum price regulations executed or approved by the Department of Finance and Administration.

(ii) **Outside equipment repairs.** Repairs to equipment, when such repairs are made by repair facilities in the private sector; however, engines, transmissions, rear axles and/or other such components shall not be included in this exemption when replaced as a complete unit instead of being repaired and the need for such total component replacement is known before disassembly of the component; however, invoices identifying the equipment, specific repairs made, parts identified by number and name, supplies used in such repairs, and the number of hours of labor and costs therefor shall be required for the payment for such repairs.

(iii) **In-house equipment repairs.** Purchases of parts for repairs to equipment, when such repairs are made by personnel of the agency or governing authority; however, entire assemblies, such as engines or transmissions, shall not be included in this exemption when the entire assembly is being replaced instead of being repaired.

(iv) **Raw gravel or dirt.** Raw unprocessed deposits of gravel or fill dirt which are to be removed and transported by the purchaser.

(v) **Governmental equipment auctions.** Motor vehicles or other equipment purchased from a federal agency or authority,

another governing authority or state agency of the State of Mississippi, or any governing authority or state agency of another state at a public auction held for the purpose of disposing of such vehicles or other equipment. Any purchase by a governing authority under the exemption authorized by this subparagraph (v) shall require advance authorization spread upon the minutes of the governing authority to include the listing of the item or items authorized to be purchased and the maximum bid authorized to be paid for each item or items.

(vi) **Intergovernmental sales and transfers.** Purchases, sales, transfers or trades by governing authorities or state agencies when such purchases, sales, transfers or trades are made by a private treaty agreement or through means of negotiation, from any federal agency or authority, another governing authority or state agency of the State of Mississippi, or any state agency or governing authority of another state. Nothing in this section shall permit such purchases through public auction except as provided for in subparagraph (v) of this section. It is the intent of this section to allow governmental entities to dispose of and/or purchase commodities from other governmental entities at a price that is agreed to by both parties. This shall allow for purchases and/or sales at prices which may be determined to be below the market value if the selling entity determines that the sale at below market value is in the best interest of the taxpayers of the state. Governing authorities shall place the terms of the agreement and any justification on the minutes, and state agencies shall obtain approval from the Department of Finance and Administration, prior to releasing or taking possession of the commodities.

(vii) **Perishable supplies or food.** Perishable supplies or food purchased for use in connection with hospitals, the school lunch programs, homemaking programs and for the feeding of county or municipal prisoners.

(viii) **Single source items.** Noncompetitive items available from one (1) source only. In connection with the purchase of noncompetitive items only available from one (1) source, a certification of the conditions and circumstances requiring the purchase shall be filed by the agency with the Department of Finance and Administration and by the governing authority with the board of the governing authority. Upon

receipt of that certification the Department of Finance and Administration or the board of the governing authority, as the case may be, may, in writing, authorize the purchase, which authority shall be noted on the minutes of the body at the next regular meeting thereafter. In those situations, a governing authority is not required to obtain the approval of the Department of Finance and Administration.

(ix) **Waste disposal facility construction contracts.**

Construction of incinerators and other facilities for disposal of solid wastes in which products either generated therein, such as steam, or recovered therefrom, such as materials for recycling, are to be sold or otherwise disposed of; however, in constructing such facilities, a governing authority or agency shall publicly issue requests for proposals, advertised for in the same manner as provided herein for seeking bids for public construction projects, concerning the design, construction, ownership, operation and/or maintenance of such facilities, wherein such requests for proposals when issued shall contain terms and conditions relating to price, financial responsibility, technology, environmental compatibility, legal responsibilities and such other matters as are determined by the governing authority or agency to be appropriate for inclusion; and after responses to the request for proposals have been duly received, the governing authority or agency may select the most qualified proposal or proposals on the basis of price, technology and other relevant factors and from such proposals, but not limited to the terms thereof, negotiate and enter contracts with one or more of the persons or firms submitting proposals.

(x) **Hospital group purchase contracts.** Supplies, commodities and equipment purchased by hospitals through group purchase programs pursuant to Section 31-7-38.

(xi) **Information technology products.** Purchases of information technology products made by governing authorities under the provisions of purchase schedules, or contracts executed or approved by the Mississippi Department of Information Technology Services and designated for use by governing authorities.

(xii) **Energy efficiency services and equipment.** Energy efficiency services and equipment acquired by school districts, community and junior colleges, institutions of higher learning and state agencies or other applicable governmental entities

on a shared-savings, lease or lease-purchase basis pursuant to Section 31-7-14.

(xiii) **Municipal electrical utility system fuel.** Purchases of coal and/or natural gas by municipally owned electric power generating systems that have the capacity to use both coal and natural gas for the generation of electric power.

(xiv) **Library books and other reference materials.** Purchases by libraries or for libraries of books and periodicals; processed film, video cassette tapes, filmstrips and slides; recorded audio tapes, cassettes and diskettes; and any such items as would be used for teaching, research or other information distribution; however, equipment such as projectors, recorders, audio or video equipment, and monitor televisions are not exempt under this subparagraph.

(xv) **Unmarked vehicles.** Purchases of unmarked vehicles when such purchases are made in accordance with purchasing regulations adopted by the Department of Finance and Administration pursuant to Section 31-7-9(2).

(xvi) **Election ballots.** Purchases of ballots printed pursuant to Section 23-15-351.

(xvii) **Multichannel interactive video systems.** From and after July 1, 1990, contracts by Mississippi Authority for Educational Television with any private educational institution or private nonprofit organization whose purposes are educational in regard to the construction, purchase, lease or lease-purchase of facilities and equipment and the employment of personnel for providing multichannel interactive video systems (ITSF) in the school districts of this state.

(xviii) **Purchases of prison industry products.** From and after January 1, 1991, purchases made by state agencies or governing authorities involving any item that is manufactured, processed, grown or produced from the state's prison industries.

(xix) **Undercover operations equipment.** Purchases of surveillance equipment or any other high-tech equipment to be used by law enforcement agents in undercover operations, provided that any such purchase shall be in compliance with regulations established by the Department of Finance and Administration.

(xx) **Junior college books for rent.** Purchases by community or junior colleges of textbooks which are obtained for the purpose of renting such books to students as part of a book service system.

(xxi) **Certain school district purchases.** Purchases of commodities made by school districts from vendors with which any levying authority of the school district, as defined in Section 37-57-1, has contracted through competitive bidding procedures for purchases of the same commodities.

(xxii) **Garbage, solid waste and sewage contracts.** Contracts for garbage collection or disposal, contracts for solid waste collection or disposal and contracts for sewage collection or disposal.

(xxiii) **Municipal water tank maintenance contracts.** Professional maintenance program contracts for the repair or maintenance of municipal water tanks, which provide professional services needed to maintain municipal water storage tanks for a fixed annual fee for a duration of two (2) or more years.

(xxiv) **Purchases of Mississippi Industries for the Blind products.** Purchases made by state agencies or governing authorities involving any item that is manufactured, processed or produced by the Mississippi Industries for the Blind.

(xxv) **Purchases of state-adopted textbooks.** Purchases of state-adopted textbooks by public school districts.

(xxvi) **Certain purchases under the Mississippi Major Economic Impact Act.** Contracts entered into pursuant to the provisions of Section 57-75-9(2), (3) and (4).

(xxvii) **Used heavy or specialized machinery or equipment for installation of soil and water conservation practices purchased at auction.** Used heavy or specialized machinery or equipment used for the installation and implementation of soil and water conservation practices or measures purchased subject to the restrictions provided in Sections 69-27-331 through 69-27-341. Any purchase by the State Soil and Water Conservation Commission under the exemption authorized by this subparagraph shall require advance authorization spread upon the minutes of the commission to include the listing of the item or items authorized to be purchased and the maximum bid authorized to be paid for each item or items.

(xxviii) **Hospital lease of equipment or services.**

Leases by hospitals of equipment or services if the leases are in compliance with paragraph (1)(ii).

(xxix) **Purchases made pursuant to qualified cooperative purchasing agreements.** Purchases made by certified purchasing offices of state agencies or governing authorities under cooperative purchasing agreements previously approved by the Office of Purchasing and Travel and established by or for any municipality, county, parish or state government or the federal government, provided that the notification to potential contractors includes a clause that sets forth the availability of the cooperative purchasing agreement to other governmental entities. Such purchases shall only be made if the use of the cooperative purchasing agreements is determined to be in the best interest of the governmental entity.

(xxx) **School yearbooks.** Purchases of school yearbooks by state agencies or governing authorities; provided, however, that state agencies and governing authorities shall use for these purchases the RFP process as set forth in the Mississippi Procurement Manual adopted by the Office of Purchasing and Travel.

(xxxi) **Design-build method and dual-phase design-build method of contracting.** Contracts entered into under the provisions of Section 31-7-13.1, 37-101-44 or 65-1-85.

(xxxii) **Toll roads and bridge construction projects.** Contracts entered into under the provisions of Section 65-43-1 or 65-43-3.

(xxxiii) **Certain purchases under Section 57-1-221.** Contracts entered into pursuant to the provisions of Section 57-1-221.

(xxxiv) **Certain transfers made pursuant to the provisions of Section 57-105-1(7).** Transfers of public property or facilities under Section 57-105-1(7) and construction related to such public property or facilities.

(n) **Term contract authorization.** All contracts for the purchase of:

(i) All contracts for the purchase of commodities, equipment and public construction (including, but not limited to, repair and maintenance), may be let for periods of not more than sixty (60) months in advance, subject to applicable

statutory provisions prohibiting the letting of contracts during specified periods near the end of terms of office. Term contracts for a period exceeding twenty-four (24) months shall also be subject to ratification or cancellation by governing authority boards taking office subsequent to the governing authority board entering the contract.

(ii) Bid proposals and contracts may include price adjustment clauses with relation to the cost to the contractor based upon a nationally published industry-wide or nationally published and recognized cost index. The cost index used in a price adjustment clause shall be determined by the Department of Finance and Administration for the state agencies and by the governing board for governing authorities. The bid proposal and contract documents utilizing a price adjustment clause shall contain the basis and method of adjusting unit prices for the change in the cost of such commodities, equipment and public construction.

(o) **Purchase law violation prohibition and vendor penalty.** No contract or purchase as herein authorized shall be made for the purpose of circumventing the provisions of this section requiring competitive bids, nor shall it be lawful for any person or concern to submit individual invoices for amounts within those authorized for a contract or purchase where the actual value of the contract or commodity purchased exceeds the authorized amount and the invoices therefor are split so as to appear to be authorized as purchases for which competitive bids are not required. Submission of such invoices shall constitute a misdemeanor punishable by a fine of not less than Five Hundred Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00), or by imprisonment for thirty (30) days in the county jail, or both such fine and imprisonment. In addition, the claim or claims submitted shall be forfeited.

(p) **Electrical utility petroleum-based equipment purchase procedure.** When in response to a proper advertisement therefor, no bid firm as to price is submitted to an electric utility for power transformers, distribution transformers, power breakers, reclosers or other articles containing a petroleum product, the electric utility may accept the lowest and best bid therefor although the price is not firm.

(q) **Fuel management system bidding procedure.** Any governing authority or agency of the state shall, before contracting

for the services and products of a fuel management or fuel access system, enter into negotiations with not fewer than two (2) sellers of fuel management or fuel access systems for competitive written bids to provide the services and products for the systems. In the event that the governing authority or agency cannot locate two (2) sellers of such systems or cannot obtain bids from two (2) sellers of such systems, it shall show proof that it made a diligent, good-faith effort to locate and negotiate with two (2) sellers of such systems. Such proof shall include, but not be limited to, publications of a request for proposals and letters soliciting negotiations and bids. For purposes of this paragraph (q), a fuel management or fuel access system is an automated system of acquiring fuel for vehicles as well as management reports detailing fuel use by vehicles and drivers, and the term "competitive written bid" shall have the meaning as defined in paragraph (b) of this section. Governing authorities and agencies shall be exempt from this process when contracting for the services and products of fuel management or fuel access systems under the terms of a state contract established by the Office of Purchasing and Travel.

(r) **Solid waste contract proposal procedure.** Before entering into any contract for garbage collection or disposal, contract for solid waste collection or disposal or contract for sewage collection or disposal, which involves an expenditure of more than Fifty Thousand Dollars (\$50,000.00), a governing authority or agency shall issue publicly a request for proposals concerning the specifications for such services which shall be advertised for in the same manner as provided in this section for seeking bids for purchases which involve an expenditure of more than the amount provided in paragraph (c) of this section. Any request for proposals when issued shall contain terms and conditions relating to price, financial responsibility, technology, legal responsibilities and other relevant factors as are determined by the governing authority or agency to be appropriate for inclusion; all factors determined relevant by the governing authority or agency or required by this paragraph (r) shall be duly included in the advertisement to elicit proposals. After responses to the request for proposals have been duly received, the governing authority or agency shall select the most qualified proposal or proposals on the basis of price, technology and other relevant factors and from such proposals, but not limited to

the terms thereof, negotiate and enter into contracts with one or more of the persons or firms submitting proposals. If the governing authority or agency deems none of the proposals to be qualified or otherwise acceptable, the request for proposals process may be reinitiated. Notwithstanding any other provisions of this paragraph, where a county with at least thirty-five thousand (35,000) nor more than forty thousand (40,000) population, according to the 1990 federal decennial census, owns or operates a solid waste landfill, the governing authorities of any other county or municipality may contract with the governing authorities of the county owning or operating the landfill, pursuant to a resolution duly adopted and spread upon the minutes of each governing authority involved, for garbage or solid waste collection or disposal services through contract negotiations.

(s) **Minority set-aside authorization.** Notwithstanding any provision of this section to the contrary, any agency or governing authority, by order placed on its minutes, may, in its discretion, set aside not more than twenty percent (20%) of its anticipated annual expenditures for the purchase of commodities from minority businesses; however, all such set-aside purchases shall comply with all purchasing regulations promulgated by the Department of Finance and Administration and shall be subject to bid requirements under this section. Set-aside purchases for which competitive bids are required shall be made from the lowest and best minority business bidder. For the purposes of this paragraph, the term "minority business" means a business which is owned by a majority of persons who are United States citizens or permanent resident aliens (as defined by the Immigration and Naturalization Service) of the United States, and who are Asian, Black, Hispanic or Native American, according to the following definitions:

(i) "Asian" means persons having origins in any of the original people of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands.

(ii) "Black" means persons having origins in any black racial group of Africa.

(iii) "Hispanic" means persons of Spanish or Portuguese culture with origins in Mexico, South or Central America, or the Caribbean Islands, regardless of race.

(iv) "Native American" means persons having origins in any of the original people of North America, including American Indians, Eskimos and Aleuts.

(t) **Construction punch list restriction.** The architect, engineer or other representative designated by the agency or governing authority that is contracting for public construction or renovation may prepare and submit to the contractor only one (1) preliminary punch list of items that do not meet the contract requirements at the time of substantial completion and one (1) final list immediately before final completion and final payment.

(u) **Procurement of construction services by state institutions of higher learning.** Contracts for privately financed construction of auxiliary facilities on the campus of a state institution of higher learning may be awarded by the Board of Trustees of State Institutions of Higher Learning to the lowest and best bidder, where sealed bids are solicited, or to the offeror whose proposal is determined to represent the best value to the citizens of the State of Mississippi, where requests for proposals are solicited.

(v) **Insurability of bidders for public construction or other public contracts.** In any solicitation for bids to perform public construction or other public contracts to which this section applies including, but not limited to, contracts for repair and maintenance, for which the contract will require insurance coverage in an amount of not less than One Million Dollars (\$1,000,000.00), bidders shall be permitted to either submit proof of current insurance coverage in the specified amount or demonstrate ability to obtain the required coverage amount of insurance if the contract is awarded to the bidder. Proof of insurance coverage shall be submitted within five (5) business days from bid acceptance.

(w) **Purchase authorization clarification.** Nothing in this section shall be construed as authorizing any purchase not authorized by law.

SECTION 2. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

Senate Bill 2074

Description: State Personnel Director; revise qualifications of.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2013

Chapter Number: 387

History of Actions:

1	01/14	(S) Referred To Accountability, Efficiency, Transparency
2	01/30	(S) Title Suff Do Pass
3	02/06	(S) Passed {Vote}
4	02/07	(S) Transmitted To House
5	02/21	(H) Referred To Appropriations
6	02/28	(H) Title Suff Do Pass
7	03/11	(H) Passed {Vote}
8	03/12	(H) Transmitted To Senate
9	03/14	(S) Enrolled Bill Signed
10	03/14	(H) Enrolled Bill Signed
11	03/20	Approved by Governor

Code Section: A 025-0009-0119

----- Additional Information -----

Senate Committee: Accountability, Efficiency, Transparency

House Committee: Appropriations

Principal Author: Brown

Additional Authors: Collins

Title: AN ACT TO AMEND SECTION 25-9-119, MISSISSIPPI CODE OF 1972, TO REVISE THE QUALIFICATIONS OF THE STATE PERSONNEL DIRECTOR TO CLARIFY THAT THE DIRECTOR MAY HAVE A JURIS DOCTOR DEGREE FROM AN ACCREDITED LAW SCHOOL INSTEAD OF A MASTER'S DEGREE IN BUSINESS

ADMINISTRATION, PERSONNEL MANAGEMENT OR THE EQUIVALENT; AND
FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI SB 2074

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Accountability, Efficiency, Transparency

By: Senator(s) Brown, Collins

Senate Bill 2074

(As Sent to Governor)

AN ACT TO AMEND SECTION 25-9-119, MISSISSIPPI CODE OF 1972, TO REVISE THE QUALIFICATIONS OF THE STATE PERSONNEL DIRECTOR TO CLARIFY THAT THE DIRECTOR MAY HAVE A JURIS DOCTOR DEGREE FROM AN ACCREDITED LAW SCHOOL INSTEAD OF A MASTER'S DEGREE IN BUSINESS ADMINISTRATION, PERSONNEL MANAGEMENT OR THE EQUIVALENT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 25-9-119, Mississippi Code of 1972, is amended as follows:

25-9-119. (1) There is created the position of the State Personnel Director who shall be selected by the State Personnel Board, with the advice and consent of the Senate. The director shall have at least a Juris Doctor degree from an accredited law school or a master's degree in business administration, personnel management or the equivalent and shall have not less than five (5) years' experience therein. His salary shall be in accordance with the Mississippi Compensation Plan. The State Personnel Director shall serve at the will and pleasure of the State Personnel Board.

(2) The duties and responsibilities of the director shall be:

(a) To serve as executive secretary to the board, to attend meetings as directed by the board and to provide such professional, technical and other supportive assistance as may be required by the board in the performance of its duties;

(b) Consistent with board policy, to administer the operations of the State Personnel System and to otherwise act in the capacity of chief executive officer to the State Personnel Board;

(c) To submit for board approval proposed rules and regulations which shall require a uniform system of personnel administration within all agencies included in this chapter.

Such rules and regulations, when approved by the board, shall be binding upon the state departments, agencies and institutions covered by this chapter and shall include provisions for the establishment and maintenance of classification and compensation plans, the conduct of examinations, employee recruiting, employee selection, the certification of eligible persons, appointments, promotions, transfers, demotions, separations, reinstatement, appeals, reports of performance, payroll certification, employee training, vacation and sick leave, compensatory leave, administrative leave, standardized* * * recordkeeping forms and procedures for leave earned, accrued and used, and all other phases of personnel administration. Such rules and regulations shall not be applicable to the emergency hiring of employees by the Public Employees' Retirement System pursuant to Section 25-11-15(7). Copies of the rules and regulations, or modifications thereto, as are approved by the State Personnel Board, shall be provided to the Chairmen of the* * * Accountability, Efficiency and Transparency Committee of the Senate and the Fees and Salaries of Public Officers Committee of the House of Representatives, the Lieutenant Governor and the Governor at least sixty (60) days before their effective date. The respective parties may submit comments to the board regarding such rules and regulations before their effective date;

(i) Compensation plans and modifications thereto promulgated under rules and regulations shall become effective as adopted, upon appropriation therefor by the State Legislature;

(ii) The director and the board shall provide for:

(A) Cost-of-living adjustments;

(B) Salary increases for outstanding performance based upon documented employee productivity and exceptional performance in assigned duties; and

(C) Plans to compensate employees for suggestions which result in improved management in technical or administrative procedures and result in documented cost savings for the state. In certifying promotions, the director shall ensure that an employee's anniversary date remains the same regardless of the date of his promotion;

(d) To submit to the board any proposed legislation as may be necessary to bring existing statutes relating to the administration of public employees into uniformity;

(e) To administer the rules and regulations and all other operational aspects of the State Personnel System and to assure compliance therewith in all the departments, agencies and institutions covered by the State Personnel System;

(f) To appoint and prescribe the duties of the State Personnel System staff, all positions of which shall be included in the state service;

(g) To prepare an annual budget for the board covering all the costs of operating the State Personnel System, including the State Personnel Board, and the costs of administering such federal laws relating to personnel administration as the board may direct, including the Intergovernmental Personnel Act of 1970;

(h) To assist state agencies, departments and institutions in complying with all applicable state and federal statutes and regulations concerning discrimination in employment, personnel administration and related matters;

(i) To recommend procedures for the establishment and abolishment of employment positions within those departments, agencies and institutions not excluded from this chapter; and

(j) To cooperate with appointing authorities in the administration of this chapter in order to promote public service and establish conditions of service which will attract and retain employees of character and capacity and to increase efficiency and economy in governmental departments by the improvement of methods of personnel administration with full recognition of the requirements and needs of management.

SECTION 2. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

Senate Bill 2076

Description: Youth court; conform time for appeal from to judicial rules of procedure.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: Passage

Chapter Number: 359

History of Actions:

- | | | |
|----|-------|---------------------------------------|
| 1 | 01/14 | (S) Referred To Judiciary, Division A |
| 2 | 01/29 | (S) Title Suff Do Pass |
| 3 | 02/07 | (S) Passed {Vote} |
| 4 | 02/08 | (S) Transmitted To House |
| 5 | 02/21 | (H) Referred To Judiciary A |
| 6 | 02/28 | (H) Title Suff Do Pass |
| 7 | 03/05 | (H) Passed {Vote} |
| 8 | 03/06 | (H) Transmitted To Senate |
| 9 | 03/11 | (S) Enrolled Bill Signed |
| 10 | 03/11 | (H) Enrolled Bill Signed |
| 11 | 03/18 | Approved by Governor |

Code Section: A 043-0021-0651

----- Additional Information -----

Senate Committee: Judiciary, Division A

House Committee: Judiciary A

Principal Author: Hopson

Title: AN ACT TO AMEND SECTION 43-21-651, MISSISSIPPI CODE OF 1972, TO CONFORM THE TIME FOR APPEAL FROM THE YOUTH COURT TO THE SUPREME COURT TO THE JUDICIAL RULES OF APPELLATE PROCEDURE; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI SB 2076

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Judiciary, Division A

By: Senator(s) Hopson

Senate Bill 2076

(As Sent to Governor)

AN ACT TO AMEND SECTION 43-21-651, MISSISSIPPI CODE OF 1972, TO CONFORM THE TIME FOR APPEAL FROM THE YOUTH COURT TO THE SUPREME COURT TO THE JUDICIAL RULES OF APPELLATE PROCEDURE; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 43-21-651, Mississippi Code of 1972, is amended as follows:

43-21-651. (1) The court to which appeals may be taken from final orders or decrees of the youth court shall be the Supreme Court of Mississippi. In any case wherein an appeal is desired, written notice of intention to appeal shall be filed with the youth court clerk within* * * the time, and costs in the youth court and the filing fee in the Supreme Court shall be paid, as is otherwise required* * * for appeals to the Supreme Court. If the appellant shall make affidavit that he is unable to pay such costs and filing fee, he shall have an appeal without prepayment of court costs and filing fee. Only the initials of the child shall appear on the record on appeal.

(2) The pendency of an appeal shall not suspend the order or decree of the youth court regarding a child, nor shall it discharge the child from the custody of that court or of the person, institution or agency to whose care such child shall have been committed, unless the youth court or Supreme Court shall so order. If appellant desires to appeal with supersedeas, the matter first shall be presented to the youth court. If refused, the youth court shall forthwith issue a written order stating the reasons for the denial, which order shall be subject to review by the Supreme Court. If the Supreme Court does not dismiss the proceedings and discharge the child, it shall affirm or modify or reverse the order of the youth court and remand the child to the jurisdiction of the youth court for placement and supervision in accordance with its order, and thereafter the child shall be and remain

2013 GENERAL LAWS OF MISSISSIPPI SB 2076

under the jurisdiction of the youth court in the same manner as if the youth court had made the order without an appeal having been taken.

(3) Appeals from the youth court shall be preference cases in the Supreme Court.

SECTION 2. This act shall take effect and be in force from and after its passage.

Mississippi Legislature

2013 Regular Session

Senate Bill 2111

Description: Tax sales; revise method of service of notice of expiration of redemption period for property sold at.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Three/Fifths

Effective date: July 1, 2013

Chapter Number: 365

History of Actions:

- | | | |
|----|-------|----------------------------------|
| 1 | 01/14 | (S) Referred To Finance |
| 2 | 01/31 | (S) Title Suff Do Pass Comm Sub |
| 3 | 02/07 | (S) Committee Substitute Adopted |
| 4 | 02/07 | (S) Passed {Vote} |
| 5 | 02/08 | (S) Transmitted To House |
| 6 | 02/25 | (H) Referred To Ways and Means |
| 7 | 03/05 | (H) Title Suff Do Pass |
| 8 | 03/06 | (H) Passed {Vote} |
| 9 | 03/07 | (H) Transmitted To Senate |
| 10 | 03/11 | (S) Enrolled Bill Signed |
| 11 | 03/11 | (H) Enrolled Bill Signed |
| 12 | 03/18 | Approved by Governor |

Code Section: A 027-0043-0003

----- Additional Information -----

Senate Committee: Finance

House Committee: Ways and Means

Principal Author: Kirby

Title: AN ACT TO AMEND SECTION 27-43-3, MISSISSIPPI CODE OF 1972, TO REVISE THE MANNER IN WHICH NOTICE OF THE EXPIRATION OF THE TIME OF REDEMPTION WITH RESPECT TO LAND SOLD AT A TAX SALE IS MADE TO THE OWNER OF THE PROPERTY IF THE OWNER IS A RESIDENT OF THIS STATE;

TO INCREASE THE FEE PAID TO THE SHERIFF FOR SERVICE OF SUCH NOTICE;
AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI SB 2111

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Finance

By: Senator(s) Kirby

Senate Bill 2111

(As Sent to Governor)

AN ACT TO AMEND SECTION 27-43-3, MISSISSIPPI CODE OF 1972, TO REVISE THE MANNER IN WHICH NOTICE OF THE EXPIRATION OF THE TIME OF REDEMPTION WITH RESPECT TO LAND SOLD AT A TAX SALE IS MADE TO THE OWNER OF THE PROPERTY IF THE OWNER IS A RESIDENT OF THIS STATE; TO INCREASE THE FEE PAID TO THE SHERIFF FOR SERVICE OF SUCH NOTICE; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 27-43-3, Mississippi Code of 1972, is amended as follows:

27-43-3. The clerk shall issue the notice to the sheriff of the county of the reputed owner's residence, if he* * * is a resident of the State of Mississippi, and the sheriff shall be required to serve* * * notice as* * * follows:

(a) Upon the reputed owner personally, if he can be found in the county after diligent search and inquiry, by handing him a true copy of the notice;

(b) If the reputed owner cannot be found in the county after diligent search and inquiry, then by leaving a true copy of the notice at his usual place of abode with the spouse of the reputed owner or some other person who lives at his usual place of abode above the age of sixteen (16) years, and willing to receive the copy of the notice; or

(c) If the reputed owner cannot be found after diligent search and inquiry, and if no person above the age of sixteen (16) years who lives at his usual place of abode can be found at his usual place of abode who is willing to receive the copy of the notice, then by posting a true copy of the notice on a door of the reputed owner's usual place of abode.

The sheriff shall make his return to the chancery clerk issuing* * * the notice. The clerk shall also mail a copy of* * * the notice to the reputed owner at his usual street address, if* * * it can be ascertained after diligent search

and inquiry, or to his post-office address if only that can be ascertained, and he shall note such action on the tax sales record. The clerk shall also be required to publish the name and address of the reputed owner of the property and the legal description of* * * the property in a public newspaper of the county in which the land is located, or if no newspaper is published as such, then in a newspaper having a general circulation in* * * the county.* * * The publication shall be made at least forty-five (45) days prior to the expiration of the redemption period.

If* * * the reputed owner is a nonresident of the State of Mississippi, then the clerk shall mail a copy of* * * the notice* * * to the reputed owner in the same manner as* * * set out in this section for notice to a resident of the State of Mississippi, except that* * * notice served by the sheriff shall not be required.

Notice by mail shall be by registered or certified mail. In the event the notice by mail is returned undelivered and the* * * notice as* * * required in this section to be served by the sheriff is returned not found, then the clerk shall make further search and inquiry to ascertain the reputed owner's street and post-office address. If the reputed owner's street or post-office address is ascertained after the additional search and inquiry, the clerk shall again issue notice as* * * set out in this section. If* * * notice is again issued and it is again returned not found and if notice by mail is again returned undelivered, then the clerk shall file an affidavit to that effect and shall specify* * * in the affidavit the acts of search and inquiry made by him in an effort to ascertain the reputed owner's street and post-office address and* * * the affidavit shall be retained as a permanent record in the office of the clerk and* * * that action shall be noted on the tax sales record. If the clerk is still unable to ascertain the reputed owner's street or post-office address after making search and inquiry for the second time, then it shall not be necessary to issue any additional notice but the clerk shall file an affidavit specifying* * * the acts of search and inquiry made by him in an effort to ascertain the reputed owner's street and post-office address and* * * the affidavit shall be retained as a permanent record in the office of the clerk and* * * that action shall be noted on the tax sale record.

2013 GENERAL LAWS OF MISSISSIPPI SB 2111

For examining the records to ascertain the record owner of the property, the clerk shall be allowed a fee of Fifty Dollars (\$50.00); for issuing the notice the clerk shall be allowed a fee of Two Dollars (\$2.00) and, for mailing* * * the notice and noting* * * that action on the tax sales record, a fee of One Dollar (\$1.00); and for serving the notice, the sheriff shall be allowed a fee of* * * Thirty-five Dollars (\$35.00). For issuing a second notice, the clerk shall be allowed a fee of Five Dollars (\$5.00) and, for mailing* * * the notice and noting* * * that action on the tax sales record, a fee of Two Dollars and Fifty Cents (\$2.50), and for serving the second notice, the sheriff shall be allowed a fee of* * * Thirty-five Dollars (\$35.00). The clerk shall also be allowed the actual cost of publication.* * * The fees and cost shall be taxed against the owner of* * * the land if the* * * land is redeemed, and if not redeemed, then* * * the fees are to be taxed as part of the cost against the purchaser. The failure of the landowner to actually receive the notice herein required shall not render the title void, provided the clerk and sheriff have complied with the duties* * * prescribed for them in this section.

Should the clerk inadvertently fail to send notice as prescribed in this section, then* * * the sale shall be void and the clerk shall not be liable to the purchaser or owner upon refund of all purchase money paid.

SECTION 2. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

Senate Bill 2183

Description: Beer; authorize the making of homemade beer for personal, family, domestic or household uses.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2013

Chapter Number: 345

History of Actions:

1	01/14	(S)	Referred To Economic Development; Tourism
2	01/30	(S)	DR - TSDPCS: EC To TO
3	01/31	(S)	Title Suff Do Pass Comm Sub
4	02/07	(S)	Committee Substitute Adopted
5	02/07	(S)	Passed {Vote}
6	02/07	(S)	Immediate Release
7	02/07	(S)	Transmitted To House
8	02/21	(H)	Referred To Ways and Means
9	02/26	(H)	Title Suff Do Pass
10	03/06	(H)	Passed {Vote}
11	03/07	(H)	Transmitted To Senate
12	03/11	(S)	Enrolled Bill Signed
13	03/11	(H)	Enrolled Bill Signed
14	03/18		Approved by Governor

Code Section: A 067-0003-0011, A 067-0003-0007, A 067-0003-0013, A 067-0003-0015

----- **Additional Information** -----

Senate Committee: Economic Development, Tourism

House Committee: Ways and Means

Principal Author: Horhn

Title: AN ACT TO AMEND SECTION 67-3-11, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT EVERY PERSON SHALL HAVE THE RIGHT TO MAKE HOMEMADE BEER FOR PERSONAL, FAMILY, DOMESTIC OR HOUSEHOLD

PURPOSES IF THE BEER IS MADE IN A COUNTY OR MUNICIPALITY IN WHICH THE POSSESSION OF LIGHT WINE OR BEER IS LAWFUL; TO LIMIT THE AMOUNT OF HOMEMADE BEER THAT MAY BE MADE BY ANY PERSON IN A CALENDAR YEAR; TO AUTHORIZE HOMEMADE BEER; TO AUTHORIZE THE TRANSPORT OF HOMEMADE BEER FROM THE PREMISES WHERE MADE ONLY FOR THE PURPOSE OF PARTICIPATING IN A BONA FIDE EXHIBITION, CONTEST OR COMPETITION WHERE HOMEMADE BEER IS BEING TASTED AND JUDGED; TO MAKE IT CLEAR THAT HOMEMADE BEER MAY NOT BE SOLD; TO AMEND SECTIONS 67-3-7, 67-3-13 AND 67-3-15, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI SB 2183

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Economic Development; Tourism

By: Senator(s) Horhn

Senate Bill 2183

(As Sent to Governor)

AN ACT TO AMEND SECTION 67-3-11, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT EVERY PERSON SHALL HAVE THE RIGHT TO MAKE HOMEMADE BEER FOR PERSONAL, FAMILY, DOMESTIC OR HOUSEHOLD PURPOSES IF THE BEER IS MADE IN A COUNTY OR MUNICIPALITY IN WHICH THE POSSESSION OF LIGHT WINE OR BEER IS LAWFUL; TO LIMIT THE AMOUNT OF HOMEMADE BEER THAT MAY BE MADE BY ANY PERSON IN A CALENDAR YEAR; TO AUTHORIZE HOMEMADE BEER; TO AUTHORIZE THE TRANSPORT OF HOMEMADE BEER FROM THE PREMISES WHERE MADE ONLY FOR THE PURPOSE OF PARTICIPATING IN A BONA FIDE EXHIBITION, CONTEST OR COMPETITION WHERE HOMEMADE BEER IS BEING TASTED AND JUDGED; TO MAKE IT CLEAR THAT HOMEMADE BEER MAY NOT BE SOLD; TO AMEND SECTIONS 67-3-7, 67-3-13 AND 67-3-15, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 67-3-11, Mississippi Code of 1972, is amended as follows:

67-3-11. (1) Every person shall have the right to make homemade wine for domestic or household uses only, free of all restraint by this chapter or otherwise, and no such election as provided for in Sections 67-3-7, 67-3-9 and 67-3-13, shall deprive any person of the right to make homemade wine for domestic or household uses only.

(2) (a) Every person twenty-one (21) years of age or older shall have the right to make homemade beer for personal, family, domestic or household uses without restraint by this chapter or otherwise if the beer is made in a county or municipality in which the possession of light wine or beer is lawful.

(b) The maximum amount of homemade beer that a person may make in a calendar year shall not exceed:

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(i) One hundred (100) gallons if there is only one (1) person over the age of twenty-one (21) years of age residing in the household; and

(ii) Two hundred (200) gallons if there are two (2) or more persons over the age of twenty-one (21) years residing in the household.

(c) A person who makes homemade beer as authorized in this section may remove the beer from the premises of the household where it is made and transport the beer only for the purpose of participating in a bona fide exhibition, contest or competition where homemade beer is being tasted and judged; however, homemade beer may not be sold or offered for sale under any circumstances.

SECTION 2. Section 67-3-7, Mississippi Code of 1972, is amended as follows:

67-3-7. (1) If any county, at an election held for the purpose under the election laws of the state, shall by a majority vote of the duly qualified electors voting in the election determine that the transportation, storage, sale, distribution, receipt and/or manufacture of wine and beer shall not be permitted in such county, then the same shall not be permitted therein except as authorized under Section 67-9-1 and as may be otherwise authorized in this section. An election to determine whether such transportation, storage, sale, distribution, receipt and/or manufacture of such beverages shall be excluded from any county in the state, shall, on a petition of twenty percent (20%) of the duly qualified electors of such county, be ordered by the board of supervisors of the county, for such county only. No election on the question shall be held in any one county more often than once in five (5) years.

In counties which have elected, or may elect by a majority vote of the duly qualified electors voting in the election, that the transportation, storage, sale, distribution, receipt and/or manufacture of wine or beer shall not be permitted in the county, an election may be held in the same manner as the election hereinabove provided on the question of whether or not the transportation, storage, sale, distribution, receipt and/or manufacture of said beverages shall be permitted in such county. Such election shall be ordered by the board of supervisors of such county on a petition of twenty percent (20%) of the duly qualified electors of such county. No election

on this question can be ordered more often than once in five (5) years.

(2) Nothing in this section shall make it unlawful to possess beer or wine, as defined herein, in any municipality which has heretofore or which may hereafter vote in an election, pursuant to Section 67-3-9, in which a majority of the qualified electors vote in favor of permitting the sale and the receipt, storage and transportation for the purpose of sale of beer or wine as defined herein.

(3) Nothing in this section shall make it unlawful to:

(a) Possess or consume light wine or beer at a qualified resort area as defined in Section 67-1-5;

(b) Sell, distribute and transport light wine or beer to a qualified resort area as defined in Section 67-1-5;

(c) Sell light wine or beer at a qualified resort area as defined in Section 67-1-5 if such light wine or beer is sold by a person with a permit to engage in the business as a retailer of light wine or beer;

(d) Transport beer of an alcoholic content of more than eight percent (8%) by weight if it is being transported to another state for legal sale in that state* * *;

(e) Transport homemade beer as authorized in Section 67-3-11.

SECTION 3. Section 67-3-13, Mississippi Code of 1972, is amended as follows:

67-3-13. (1) Except as otherwise provided herein and as authorized under this section and Section 67-9-1, in any county which has at any time since February 26, 1934, elected, or which may hereafter elect, to prohibit the transportation, storage, sale, distribution, receipt and/or manufacture of wine and beer of an alcoholic content of not more than four percent (4%) by weight in such county, it is hereby declared to be unlawful to possess such beverages therein. In any county which, after July 1, 1998, elects to prohibit the transportation, storage, sale, distribution, receipt and/or manufacture of wine and beer of an alcoholic content of not more than five percent (5%) by weight in such county, it is hereby declared to be unlawful to possess such beer therein. In any county which, after July 1, 2012, elects to prohibit the transportation, storage, sale, distribution, receipt and/

or manufacture of wine of an alcoholic content of not more than five percent (5%) by weight in such county and beer of an alcoholic content of not more than eight percent (8%) by weight, it is hereby declared to be unlawful to possess such beer therein. Any person found possessing any beer or wine of any quantity whatsoever in such county shall, on conviction, be imprisoned not more than ninety (90) days or fined not more than Five Hundred Dollars (\$500.00), or be both so fined and imprisoned.

(2) Notwithstanding the provisions of subsection (1) of this section, in any county or municipality in which the transportation, storage, sale, distribution, receipt and/or manufacture of light wine and beer is prohibited, it shall not be unlawful for a permitted wholesaler or distributor to possess light wine and beer when such light wine and beer is held therein solely for the purpose of storage and for distribution to other counties and municipalities in which possession of such beverages is lawful.

(3) Notwithstanding the provisions of subsections (1) and (2) of this section, in any county in which transportation, storage, sale, distribution, receipt and/or manufacture of light wine and beer is prohibited, it shall not be unlawful:

(a) To receive, store, possess or consume light wine or beer at a resort area as defined in Section 67-1-5;

(b) To distribute and transport light wine or beer to a resort area as defined in Section 67-1-5;

(c) To transport beer of an alcoholic content of more than eight percent (8%) by weight if it is being transported to another state for legal sale in that state* * *;

(d) Transport homemade beer as authorized in Section 67-3-11.

SECTION 4. Section 67-3-15, Mississippi Code of 1972, is amended as follows:

67-3-15. (1) Any person who shall brew or manufacture or sell any beer or light wine without first having secured a permit and/or license from the commissioner authorizing the brewing or manufacture or sale of such liquor, shall be guilty of a misdemeanor and, upon conviction thereof, be punished by a fine of not more than One Thousand Dollars (\$1,000.00) or imprisonment in the county jail for not more than one (1)

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year, or both, in the discretion of the court. Any person so convicted may not apply for any permit or license issued by the commissioner until five (5) years have elapsed from the date of such conviction.

(2) This section shall not apply to beer authorized to be made pursuant to Section 67-3-11.

SECTION 5. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

Senate Bill 2193

Description: Uniform Controlled Substances Act; revise Schedules III and V.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2013

Chapter Number: 378

History of Actions:

- | | | |
|----|-------|-----------------------------|
| 1 | 01/21 | (S) Referred To Drug Policy |
| 2 | 01/30 | (S) Title Suff Do Pass |
| 3 | 02/07 | (S) Passed {Vote} |
| 4 | 02/08 | (S) Transmitted To House |
| 5 | 02/21 | (H) Referred To Judiciary A |
| 6 | 02/28 | (H) Title Suff Do Pass |
| 7 | 03/07 | (H) Passed {Vote} |
| 8 | 03/11 | (H) Transmitted To Senate |
| 9 | 03/13 | (S) Enrolled Bill Signed |
| 10 | 03/14 | (H) Enrolled Bill Signed |
| 11 | 03/20 | Approved by Governor |

Code Section: A 041-0029-0117, A 041-0029-0121

----- Additional Information -----

Senate Committee: Drug Policy

House Committee: Judiciary A

Principal Author: Jordan

Title: AN ACT TO AMEND SECTION 41-29-117, MISSISSIPPI CODE OF 1972, TO REVISE SCHEDULE III TO INCLUDE THE ANABOLIC STEROIDS METHASTERONE AND PROSTANOZOL; TO AMEND SECTION 41-29-121, MISSISSIPPI CODE OF 1972, TO REVISE SCHEDULE V TO INCLUDE THE DEPRESSANT EZOGABINE; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Drug Policy

By: Senator(s) Jordan

Senate Bill 2193

(As Sent to Governor)

AN ACT TO AMEND SECTION 41-29-117, MISSISSIPPI CODE OF 1972, TO REVISE SCHEDULE III TO INCLUDE THE ANABOLIC STEROIDS METHASTERONE AND PROSTANOZOL; TO AMEND SECTION 41-29-121, MISSISSIPPI CODE OF 1972, TO REVISE SCHEDULE V TO INCLUDE THE DEPRESSANT EZOGABINE; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 41-29-117, Mississippi Code of 1972, is amended as follows:

41-29-117. (A) The controlled substances listed in this section are included in Schedule III.

SCHEDULE III

(a) **Stimulants.** Any material, compound, mixture, or preparation which contains any quantity of the following substances or their salts, isomers, or salts of isomers, of the following substances:

- (1) Benzphetamine;
- (2) Chlorphentermine;
- (3) Clortermine;
- (4) Phendimetrazine.

(b) **Depressants.** Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:

(1) Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, except those substances which are specifically listed in other schedules;

(2) Unless specifically excepted or unless listed in another schedule, any compound, mixture or preparation containing any of the following substances or any salt of the substances specifically included in this subsection (2) and one or more

other active medicinal ingredients which are not listed in any other schedule:

- (i) Amobarbital;
- (ii) Secobarbital;
- (iii) Pentobarbital;

(3) Any suppository dosage form containing any of the following substances or any salt of any of the substances specifically included in this subsection (3) approved by the Food and Drug Administration for marketing only as a suppository:

- (i) Amobarbital;
 - (ii) Secobarbital;
 - (iii) Pentobarbital;
- (4) Chlorhexadol;
- (5) Embutramide;

(6) Any drug product containing gamma-hydroxybutyric acid, including its salts, isomers and salts of isomers, for which an application is approved under Section 505 of the Federal Food, Drug and Cosmetic Act;

(7) Ketamine; its salts, isomers, and salts of isomers; other names include (+)-2-(2-chlorophenyl)-2-(methylamino)cyclohexanone;

- (8) Lysergic acid;
- (9) Lysergic acid amide;
- (10) Methyprylon;
- (11) Sulfondiethylmethane;
- (12) Sulfonethylmethane;
- (13) Sulfonmethane;

(14) Tiletamine and zolazepam or any salt thereof; other names for the tiletamine and zolazepam combination product include: telazol; other names for tiletamine include: 2-(ethylamino)-2-(2-thienyl)-cyclohexanone; other names for zolazepam include: 4-(2-fluorophenyl)-6,8-dihydro 1,3, 8-trimethylpyrazolo-[3,4-e] (1,4)-diazepin-7(1H)-one, flupyrzapon.

- (c) Nalorphine.

(d) Any material, compound, mixture or preparation which contains any quantity of ephedrine or pseudoephedrine.

(e) **Narcotic drugs.** Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

(1) Not more than one and eight-tenths (1.8) grams of codeine, or any of its salts, per one hundred (100) milliliters or not more than ninety (90) milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(2) Not more than one and eight-tenths (1.8) grams of codeine, or any of its salts, per one hundred (100) milliliters or not more than ninety (90) milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(3) Not more than three hundred (300) milligrams of dihydrocodeinone (also known as hydrocodone), or any of its salts, per one hundred (100) milliliters or not more than fifteen (15) milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

(4) Not more than three hundred (300) milligrams of dihydrocodeinone (also known as hydrocodone), or any of its salts, per one hundred (100) milliliters or not more than fifteen (15) milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts;

(5) Not more than one and eight-tenths (1.8) grams of dihydrocodeine, or any of its salts, per one hundred (100) milliliters or not more than ninety (90) milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(6) Not more than three hundred (300) milligrams of ethylmorphine, or any of its salts, per one hundred (100) milliliters or not more than fifteen (15) milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(7) Not more than five hundred (500) milligrams of opium per one hundred (100) milliliters or per one hundred (100) grams, or not more than twenty-five (25) milligrams per dosage

unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(8) Not more than fifty (50) milligrams of morphine, or any of its salts, per one hundred (100) milliliters or per one hundred (100) grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(f) **Anabolic steroids.** Unless specifically exempted or listed in another schedule, any material, compound, mixture or preparation containing any quantity of any of the following anabolic steroids* * * (any drug or hormonal substance chemically and pharmacologically related to testosterone* * * other than estrogens, progestins, corticosteroids and dehydroepiandrosterone)* * *:

- (1) 3beta,17-dihydroxy-5a-androstane;
- (2) 3alpha,17beta-dihydroxy-5a-androstane;
- (3) 5alpha-androstan-3,17-dione;
- (4) 1-androstenediol (3beta,17beta-dihydroxy-5alpha-androst-1-ene);
- (5) 1-androstenediol (3alpha,17beta-dihydroxy-5alpha-androst-1-ene);
- (6) 4-androstenediol (3beta,17beta-dihydroxy-androst-4-ene);
- (7) 5-androstenediol (3beta,17beta-dihydroxy-androst-5-ene);
- (8) 1-androstenedione ([5alpha]-androst-1-en-3, 17-dione);
- (9) 4-androstenedione (androst-4-en-3,17-dione);
- (10) 5-androstenedione (androst-5-en-3,17-dione);
- (11) Bolasterone (7alpha,17alpha-dimethyl-17beta-hydroxyandrost-4-en-3-one);
- (12) Boldenone (17beta-hydroxyandrost-1,4,-diene-3-one);
- (13) Boldione (androsta-1,4-diene-3,17-dione);
- (14) Calusterone (7beta,17alpha-dimethyl-17beta-hydroxyandrost-4-en-3-one);
- (15) Clostebol (4-chloro-17beta-hydroxyandrost-4-en-3-one);
- (16) Dehydrochloromethyltestosterone (4-chloro-17beta-hydroxy-17alpha-methylandrost-1,4-dien-3-one);

(17) Desoxymethyltestosterone (17alpha-methyl-5alpha-androst-2-en-17beta-ol, also known as madol);

(* * * 18) Delta1-dihydrotestosterone (also known as 1-testosterone) (17beta-hydroxy-5alpha-androst-1-en-3-one);

(* * * 19) 4-dihydrotestosterone (17beta-hydroxy-androstan-3-one);

(* * * 20) Drostanolone (17beta-hydroxy-2alpha-methyl-5alpha-androstan-3-one);

(* * * 21) Ethylestrenol (17alpha-ethyl-17beta-hydroxyestr-4-ene);

(* * * 22) Fluoxymesterone (9-fluoro-17alpha-methyl-11beta, 17beta-dihydroxyandrost-4-en-3-one);

(* * * 23) Formebolone (2-formyl-17alpha-methyl-11alpha, 17beta-dihydroxyandrost-1, 4-dien-3-one);

(* * * 24) Furazabol (17alpha-methyl-17beta-hydroxyandrostano[2, 3-c]-furazan);

(* * * 25) 13beta-ethyl-17alpha-hydroxygon-4-en-3-one;

(* * * 26) 4-hydroxytestosterone (4, 17beta-dihydroxyandrost-4-en-3-one);

(* * * 27) 4-hydroxy-19-nortestosterone (4, 17beta-dihydroxy-estr-4-en-3-one);

* * *

(28) Mestanolone (17alpha-methyl-17beta-hydroxy-5-androstan-3-one);

(29) Mesterolone (1alpha-methyl-17beta-hydroxy-[5alpha]-androstan-3-one);

(30) Methandienone (17alpha-methyl-17beta-hydroxyandrost-1, 4-dien-3-one);

(31) Methandriol (17alpha-methyl-3beta, 17beta-dihydroxyandrost-5-ene);

(32) Methasterone (2[alpha], 17[alpha]-dimethyl-5[alpha]-androstan-17[beta]-ol-3-one;

(* * * 33) Methenolone (1-methyl-17beta-hydroxy-5alpha-androst-1-en-3-one);

(* * * 34) 17alpha-methyl-3beta, 17beta-dihydroxy-5a-androstane;

- (* * * 35) 17alpha-methyl-3alpha, 17beta-dihydroxy-5a-androstane;
- (* * * 36) 17alpha-methyl-3beta, 17beta-dihydroxyandrost-4-ene;
- (* * * 37) 17alpha-methyl-4-hydroxynandrolone (17alpha-methyl-4-hydroxy-17beta-hydroxyestr-4-en-3-one);
- (* * * 38) Methyldienolone (17alpha-methyl-17beta-hydroxyestra-4,9(10)-dien-3-one);
- (* * * 39) Methyltrienolone (17alpha-methyl-17beta-hydroxyestra-4,9-11-trien-3-one);
- (* * * 40) Methyltestosterone (17alpha-methyl-17beta-hydroxyandrost-4-en-3-one);
- (* * * 41) Mibolerone (7alpha,17alpha-dimethyl-17beta-hydroxyestr-4-en-3-one);
- (* * * 42) 17alpha-methyl-Delta1-dihydrotestosterone (17beta-hydroxy-17alpha-methyl-5alpha-androst-1-en-3-one) (also known as 17-alpha-methyl-1-testosterone);
- (* * * 43) Nandrolone (17beta-hydroxyestr-4-en-3-one);
- (* * * 44) 19-nor-4-androstenediol (3beta,17beta-dihydroxyestr-4-ene);
- (* * * 45) 19-nor-4-androstenediol (3a,17beta-dihydroxyestr-4-ene);
- (* * * 46) 19-nor-5-androstenediol (3beta,17beta-dihydroxyestr-5-ene);
- (* * * 47) 19-nor-5-androstenediol (3alpha,17beta-dihydroxyestr-5-ene);
- (* * * 48) 19-nor-4,9(10)-androstadienedione (estra-4,9(10)-diene-3,17-dione, 19-norandrosta-4,9(10)-diene-3,17-dione);
- (* * * 49) 19-nor-4-androstenedione (estr-4-en-3,17-dione);
- (* * * 50) 19-nor-5-androstenedione (estr-5-en-3,17-dione);
- (* * * 51) Norbolethone (13beta,17alpha-diethyl-17beta-hydroxygon-4-en-3-one);
- (* * * 52) Norclostebol (4-chloro-17beta-hydroxyestr-4-en-3-one);
- (* * * 53) Norethandrolone (17alpha-ethyl-17beta-hydroxyestr-4-en-3-one);

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(* * * 54) Normethandrolone (17alpha-methyl-17beta-hydroxyestr-4-en-3-one);

(* * * 55) Oxandrolone (17alpha-methyl-17beta-hydroxy-2-oxa-[5alpha]-androstan-3-one);

(* * * 56) Oxymesterone (17alpha-methyl-4,17beta-dihydroxyandrost-4-en-3-one);

(* * * 57) Oxymetholone (17alpha-methyl-2-hydroxymethylene-17beta-hydroxy-[5alpha]- androstan-3-one);

(* * * 58) Prostanazol

(17[beta]-hydroxy-5[alpha]-androstand[3,2-c]pyrazole)

(* * * 59) Stanozolol (17alpha-methyl-17beta-hydroxy-[5alpha]-androst-2-eno[3,2-c]- pyrazole);

(* * * 60) Stenbolone (17beta-hydroxy-2-methyl-[5alpha]-androst-1-en-3-one);

(* * * 61) Testolactone (13-hydroxy-3-oxo-13,17-secoandrosta-1,4-dien-17-oic acid lactone);

(* * * 62) Testosterone (17beta-hydroxyandrost-4-en-3-one);

(* * * 63) Tetrahydrogestrinone (13beta,17alpha-diethyl-17beta-hydroxygon-4,9,11-trien-3-one);

(***64Trenbolone (17beta-hydroxyestr-4,9,11-trien-3-one);

(* * * 65) Any salt, ester, or ether of a drug or substance described in this paragraph. Except such term does not include an anabolic steroid that is expressly intended for administration through implants to cattle or other nonhuman species and that has been approved by the Secretary of Health and Human Services for such administration. If any person prescribes, dispenses, or distributes such steroid for human use, the person shall be considered to have prescribed, dispensed or distributed an anabolic steroid within the meaning of this paragraph* * *.

* * *

(g) Any material, compound, mixture or preparation which contains any quantity of buprenorphine or its salts.

(h) Any material, compound, mixture or preparation which contains any quantity of pentazocine or its salts in oral dosage form.

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(i) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a United States Food and Drug Administration approved drug product.

(B) Any material, compound, mixture or preparation which contains any quantity of a Schedule III controlled substance other than butalbital, and is listed as an exempt substance in 21 CFR, Section 1308.22, 1308.24, 1308.26, 1308.32 or 1308.34, shall be exempted from the provisions of the Uniform Controlled Substances Law.

SECTION 2. Section 41-29-121, Mississippi Code of 1972, is amended as follows:

41-29-121. (A) The controlled substances listed in this section are included in Schedule V:

SCHEDULE V

(a) **Narcotic drugs containing nonnarcotic active medicinal ingredients.** Any compound, mixture or preparation containing limited quantities of any of the following narcotic drugs, which also contains one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture or preparation, valuable, medicinal qualities other than those possessed by the narcotic drug alone:

(1) Not more than two hundred (200) milligrams of codeine, or any of its salts, per one hundred (100) milliliters or per one hundred (100) grams;

(2) Not more than one hundred (100) milligrams of dihydrocodeine, or any of its salts, per one hundred (100) milliliters or per one hundred (100) grams;

(3) Not more than one hundred (100) milligrams of ethylmorphine, or any of its salts, per one hundred (100) milliliters or per one hundred (100) grams;

(4) Not more than two and five-tenths (2.5) milligrams of diphenoxylate and not less than twenty-five (25) micrograms of atropine sulphate per dosage unit;

(5) Not more than one hundred (100) milligrams of opium per one hundred (100) milliliters or per one hundred (100) grams;

(6) Not more than five-tenths (0.5) milligram of difenoxin and not less than twenty-five (25) micrograms of atropine sulfate per dosage unit.

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(b) **Stimulants.** Unless specifically excepted or listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substance, including its salts, isomers and salts of isomers: Pyrovalerone.

(c) **Depressants.** Unless specifically* * * exempted or excluded or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including their salts, isomers and salts of isomers:

(1) Ezogabine [N-[2-amino-4-(4-

fluorobenzylamino)-phenyl]-carbamic acid ethyl ester];

(* * * 2) Lacosamide [(R)-2-acetoamido-N-benzyl-3-methoxy-propionamide];

(* * * 3) Pregabalin [(S)-3-(aminomethyl)-5-methylhexanoic acid].

(B) Any material, compound, mixture or preparation which contains any quantity of a Schedule V controlled substance and is listed as an exempt substance in 21 CFR, Section 1308.22, 1308.24, 1308.26, 1308.32 or 1308.34, shall be exempted from the provisions of the Uniform Controlled Substances Law.

SECTION 3. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

Senate Bill 2194

Description: Loans; limit to single borrower shall allow for credit exposure from derivative transactions.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: Passage

Chapter Number: 303

History of Actions:

1	01/21	(S) Referred To Business and Financial Institutions
2	01/29	(S) Title Suff Do Pass
3	01/31	(S) Passed {Vote}
4	02/01	(S) Transmitted To House
5	02/01	(H) Referred To Banking and Financial Services
6	02/05	(H) Title Suff Do Pass
7	02/07	(H) Amended
8	02/07	(H) Passed As Amended {Vote}
9	02/08	(H) Returned For Concurrence
10	02/12	(S) Concurred in Amend From House {Vote}
11	02/15	(S) Enrolled Bill Signed
12	02/15	(H) Enrolled Bill Signed
13	02/19	Approved by Governor

Amendments:

[H] Amendment No 1 *Adopted* Voice Vote

Amendment Report for Senate Bill No. 2194

Code Section: A 081-0005-0077

----- Additional Information -----

Senate Committee: Business and Financial Institutions

House Committee: Banking and Financial Services

Principal Author: Jackson (15th)

Title: AN ACT TO AMEND SECTION 81-5-77, MISSISSIPPI CODE OF 1972, TO REQUIRE THE LIMIT ON LOANS TO A SINGLE BORROWER TO TAKE INTO CONSIDERATION THE CREDIT EXPOSURE FROM DERIVATIVE TRANSACTIONS; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Business and Financial Institutions

By: Senator(s) Jackson (15th)

Senate Bill 2194

(As Sent to Governor)

AN ACT TO AMEND SECTION 81-5-77, MISSISSIPPI CODE OF 1972, TO REQUIRE THE LIMIT ON LOANS TO A SINGLE BORROWER TO TAKE INTO CONSIDERATION THE CREDIT EXPOSURE FROM DERIVATIVE TRANSACTIONS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 81-5-77, Mississippi Code of 1972, is amended as follows:

81-5-77. (a) The liability to a bank by a person, company, corporation or firm for * * * all loans and extensions of credit, including in the liability of such person, company or firm, where a partnership, the liabilities of the several members thereof, shall not exceed twenty percent (20%) of the aggregate unimpaired capital and unimpaired surplus of * * * the bank.

(b) The following shall not be restricted to or considered as coming within the limitations of twenty percent (20%) * * * prescribed in subsection (a):

(* * * i) Loans and discounts secured by warehouse receipts or shippers' order bills of lading representing actually existing values, provided the amount of such loans and discounts shall not exceed eighty-five percent (85%) of the market value of the commodities representing the actually existing values.

(* * * ii) Loans and discounts secured by bonds, certificates or notes constituting direct obligations of the United States government, or bonds fully guaranteed by the United States government, or by full faith and credit obligations of the State of Mississippi; * * * however, the * * * Commissioner of Banking and Consumer Finance shall from time to time determine and fix the maximum percentage of the par value of all such securities that may be loaned.

(* * * iii) Loans and discounts to the extent that they are secured or covered by guaranties, or by commitments, or agreements to take over or purchase the same, made by any federal reserve bank, or by the United States, or any department, bureau, board, commission or establishment of the United States, including any corporation wholly owned directly or indirectly by the United States; provided that such guaranties, agreements or commitments are unconditional and are to be performed by payment within sixty (60) days after demand; provided, further, that the * * * Commissioner of Banking and Consumer Finance is * * * authorized to define the terms * * * used in this section and may by regulation control the making of loans under this paragraph (* * * iii).

(* * * iv) Loans and discounts secured in full by funds on deposit in time or savings accounts with the lending bank to the credit of the borrower.

(c) The limit on loans and extensions of credit applicable to any one (1) person, company, corporation, or firm under this section shall take into consideration credit exposure arising from derivative transactions between the bank and the party. For purposes of this section, the term "derivative transaction" includes any transaction that is a contract, agreement, swap, warrant, note, or option that is based, in whole or in part, on the value of, any interest in, or any quantitative measure or the occurrence of any event relating to, one or more commodities, securities, currencies, interest or other rates, indices, or other assets.

(d) Any officer or director who * * * approves or * * * makes loans prohibited in this section shall be liable individually for the full amount of the principal and interest of any such loan or extension of credit. If the * * * Commissioner of Banking and Consumer Finance discovers, in any examination of any open bank that there is a loss on any loan or extension of credit made in violation of this section, he shall make demand of all directors and officers approving or making such loan or extension of credit for payment of the entire unpaid balance on any such loan or extension of credit. Like demand shall be made and suit brought by the receiver of any bank in liquidation.

(e) * * * However, this section shall not apply to loans or extensions of credit to the State of Mississippi, or to any political subdivision thereof, nor to any levee district.

SECTION 2. This act shall take effect and be in force from and after its passage.

Mississippi Legislature

2013 Regular Session

Senate Bill 2197

Description: Child pornography, possession of; clarify necessary state of mind.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2013

Chapter Number: 412

History of Actions:

1	01/21	(S)	Referred To Judiciary, Division B
2	01/31	(S)	Title Suff Do Pass
3	02/06	(S)	Passed {Vote}
4	02/06	(S)	Motion to Reconsider Entered
5	02/12	(S)	Motion to Reconsider Tabled
6	02/12	(S)	Transmitted To House
7	02/20	(H)	Referred To Judiciary B
8	03/04	(H)	Title Suff Do Pass
9	03/05	(H)	Read the Third Time
10	03/12	(H)	Passed {Vote}
11	03/13	(H)	Transmitted To Senate
12	03/14	(S)	Enrolled Bill Signed
13	03/14	(H)	Enrolled Bill Signed
14	03/20		Approved by Governor

Code Section: A 097-0005-0033

----- Additional Information -----

Senate Committee: Judiciary, Division B

House Committee: Judiciary B

Principal Author: Bryan

Title: AN ACT TO AMEND SECTION 97-5-33, MISSISSIPPI CODE OF 1972, TO CLARIFY THE STATE OF MIND NECESSARY TO CONSTITUTE A KNOWING VIOLATION OF THE PROSCRIPTION AGAINST POSSESSION OF CHILD PORNOGRAPHY; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Judiciary, Division B

By: Senator(s) Bryan

Senate Bill 2197

(As Sent to Governor)

AN ACT TO AMEND SECTION 97-5-33, MISSISSIPPI CODE OF 1972, TO CLARIFY THE STATE OF MIND NECESSARY TO CONSTITUTE A KNOWING VIOLATION OF THE PROSCRIPTION AGAINST POSSESSION OF CHILD PORNOGRAPHY; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 97-5-33, Mississippi Code of 1972, is amended as follows:

97-5-33. (1) No person shall, by any means including computer, cause, solicit or knowingly permit any child to engage in sexually explicit conduct or in the simulation of sexually explicit conduct for the purpose of producing any visual depiction of such conduct.

(2) No person shall, by any means including computer, photograph, film, video tape or otherwise depict or record a child engaging in sexually explicit conduct or in the simulation of sexually explicit conduct.

(3) No person shall, by any means including computer, knowingly send, transport, transmit, ship, mail or receive any photograph, drawing, sketch, film, video tape or other visual depiction of an actual child engaging in sexually explicit conduct.

(4) No person shall, by any means including computer, receive with intent to distribute, distribute for sale, sell or attempt to sell in any manner any photograph, drawing, sketch, film, video tape or other visual depiction of an actual child engaging in sexually explicit conduct.

(5) No person shall, by any means including computer, knowingly possess or knowingly access with intent to view any photograph, drawing, sketch, film, video tape or other visual depiction of an actual child engaging in sexually explicit conduct.

(6) No person shall, by any means including computer, knowingly entice, induce, persuade, seduce, solicit, advise, coerce, or order a child to meet with the defendant or any other person for the purpose of engaging in sexually explicit conduct.

(7) No person shall by any means, including computer, knowingly entice, induce, persuade, seduce, solicit, advise, coerce or order a child to produce any visual depiction of adult sexual conduct or any sexually explicit conduct.

(8) The fact that an undercover operative or law enforcement officer posed as a child or was involved in any other manner in the detection and investigation of an offense under this section shall not constitute a defense to a prosecution under this section.

(9) For purposes of determining jurisdiction, the offense is committed in this state if all or part of the conduct described in this section occurs in the State of Mississippi or if the transmission that constitutes the offense either originates in this state or is received in this state.

SECTION 2. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

Senate Bill 2202

Description: State Department of Health regulations for advanced life-support personnel; define EMT-paramedic critical care.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2013

Chapter Number: 311

History of Actions:

1	01/21	(S)	Referred To Public Health and Welfare
2	02/05	(S)	Title Suff Do Pass Comm Sub
3	02/13	(S)	Committee Substitute Adopted
4	02/13	(S)	Passed {Vote}
5	02/14	(S)	Transmitted To House
6	02/21	(H)	Referred To Public Health and Human Services
7	02/26	(H)	Title Suff Do Pass
8	02/28	(H)	Passed {Vote}
9	03/01	(H)	Transmitted To Senate
10	03/04	(S)	Enrolled Bill Signed
11	03/04	(H)	Enrolled Bill Signed
12	03/07		Approved by Governor

Code Section: A 041-0060-0011, A 041-0059-0035

----- Additional Information -----

Senate Committee: Public Health and Welfare

House Committee: Public Health and Human Services

Principal Author: Bryan

Title: AN ACT TO AMEND SECTION 41-60-11, MISSISSIPPI CODE OF 1972, TO DEFINE "EMERGENCY MEDICAL TECHNICIAN-PARAMEDIC CRITICAL CARE" REGARDING THE AUTHORITY OF THE STATE DEPARTMENT OF HEALTH TO PROMULGATE RULES AND REGULATIONS FOR ADVANCED LIFE-SUPPORT

PERSONNEL; TO AMEND SECTION 41-59-35, MISSISSIPPI CODE OF 1972, IN CONFORMITY; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Public Health and Welfare

By: Senator(s) Bryan

Senate Bill 2202

(As Sent to Governor)

AN ACT TO AMEND SECTION 41-60-11, MISSISSIPPI CODE OF 1972, TO DEFINE "EMERGENCY MEDICAL TECHNICIAN-PARAMEDIC CRITICAL CARE" REGARDING THE AUTHORITY OF THE STATE DEPARTMENT OF HEALTH TO PROMULGATE RULES AND REGULATIONS FOR ADVANCED LIFE-SUPPORT PERSONNEL; TO AMEND SECTION 41-59-35, MISSISSIPPI CODE OF 1972, IN CONFORMITY; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 41-60-11, Mississippi Code of 1972, is amended as follows:

41-60-11. As used in Sections 41-59-29 through 41-59-37 and Sections 41-60-11 and 41-60-13, unless the context otherwise requires, the term:

(a) "Advanced life support" shall mean a sophisticated level of prehospital and interhospital emergency care which includes basic life__support functions including cardiopulmonary resuscitation (CPR), plus cardiac monitoring, cardiac defibrillation, telemetered electrocardiography, administration of antiarrhythmic agents, intravenous therapy, administration of specific medications, drugs and solutions, use of adjunctive ventilation devices, trauma care and other authorized techniques and procedures.

(b) "Advanced life__support personnel" shall mean persons other than physicians engaged in the provision of advanced life support, as defined and regulated by rules and regulations promulgated by the board.

(c) "Emergency medical technician-intermediate" shall mean a person specially trained in advanced life__support modules, numbers I, II and III as developed for the United States Department of Transportation under Contract No. DOT-HS-900-089, as authorized by the Mississippi State Board of Health.

(d) "Emergency medical technician-paramedic" shall mean a person specially trained in an advanced life-support training program authorized by the Mississippi State Board of Health.

(e) "Emergency medical technician-paramedic critical care" shall be a person who (i) is licensed as a Mississippi Emergency Medical Technician Paramedic, and (ii) has successfully completed a critical care paramedic program recognized by the Bureau of Emergency Medical Services and the Mississippi State Department of Health.

(* * * f) "Medical control" shall mean directions and advice provided from a centrally designated medical facility staffed by appropriate personnel, operating under medical supervision, supplying professional support through radio or telephonic communication for on-site and in-transit basic and advanced life-support services given by field and satellite facility personnel.

SECTION 2. Section 41-59-35, Mississippi Code of 1972, is amended as follows:

41-59-35. (1) An emergency medical technician certificate so issued shall be valid for a period not exceeding two (2) years from the date of issuance and may be renewed upon payment of a renewal fee to be fixed by the board, which shall be paid to the board, provided that the holder meets the qualifications set forth in this Chapter 59 and Chapter 60 and rules and regulations promulgated by the board.

(2) The board is authorized to suspend or revoke a certificate so issued at any time it is determined that the holder no longer meets the prescribed qualifications.

(3) It shall be unlawful for any person, corporation or association to, in any manner, represent himself or itself as an Emergency Medical Technician-Basic, Emergency Medical Technician-Intermediate, Emergency Medical Technician-Paramedic, Emergency Medical Technician-Paramedic Critical Care, or Emergency Medical Services Driver, or use in connection with his or its name the words or letters of EMT, emt, paramedic, critical care paramedic, or any other letters, words, abbreviations or insignia which would indicate or imply that he or it is an Emergency Medical Technician-Basic, Emergency Medical Technician-Intermediate, Emergency Medical Technician-Paramedic, Emergency Medical Technician-Paramedic

Critical Care, or Emergency Medical Services Driver, unless certified in accordance with Chapters 59 and 60 of this title and in accordance with the rules and regulations promulgated by the board. It shall be unlawful to employ an uncertified Emergency Medical Technician-Basic, Emergency Medical Technician-Intermediate,* * * Emergency Medical Technician-Paramedic, or Emergency Medical Technician-Paramedic Critical Care to provide basic or advanced life-support services.

(4) Any Emergency Medical Technician-Basic, Emergency Medical Technician-Intermediate, Emergency Medical Technician-Paramedic,* * * Emergency Medical Technician-Paramedic Critical Care, or Emergency Medical Services Driver who violates or fails to comply with these statutes or the rules and regulations promulgated by the board hereunder shall be subject, after due notice and hearing, to an administrative fine not to exceed One Thousand Dollars (\$1,000.00).

SECTION 3. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

Senate Bill 2210

Description: Child support income administrative withholding notice; delete requirement that DHS must file with the court.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2013

Chapter Number: 354

History of Actions:

1	01/21	(S)	Referred To Public Health and Welfare; Judiciary, Division A
2	01/29	(S)	DR - TSDP: PH To JA
3	02/05	(S)	Title Suff Do Pass
4	02/11	(S)	Amended
5	02/11	(S)	Passed As Amended {Vote}
6	02/13	(S)	Transmitted To House
7	02/20	(H)	Referred To Judiciary A
8	02/28	(H)	Title Suff Do Pass
9	03/05	(H)	Passed {Vote}
10	03/06	(H)	Transmitted To Senate
11	03/11	(S)	Enrolled Bill Signed
12	03/11	(H)	Enrolled Bill Signed
13	03/18		Approved by Governor

Amendments:

[S] Amendment No 1 *Adopted* Voice Vote

Code Section: A 093-0011-0103, A 093-0011-0105

----- **Additional Information** -----

Senate Committee: Public Health and Welfare, Judiciary, Division A

House Committee: Judiciary A

Principal Author: Burton

Title: AN ACT TO AMEND SECTIONS 93-11-103 AND 93-11-105, MISSISSIPPI CODE OF 1972, TO DELETE THE REQUIREMENT THAT THE DEPARTMENT OF HUMAN SERVICES FILE EACH INDIVIDUAL ADMINISTRATIVE INCOME WITHHOLDING NOTICE WITH THE COURT; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI SB 2210

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Public Health and Welfare; Judiciary, Division A

By: Senator(s) Burton

Senate Bill 2210

(As Sent to Governor)

AN ACT TO AMEND SECTIONS 93-11-103 AND 93-11-105, MISSISSIPPI CODE OF 1972, TO DELETE THE REQUIREMENT THAT THE DEPARTMENT OF HUMAN SERVICES FILE EACH INDIVIDUAL ADMINISTRATIVE INCOME WITHHOLDING NOTICE WITH THE COURT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 93-11-103, Mississippi Code of 1972, is amended as follows:

93-11-103. (1) Upon entry of any order for support by a court of this state where the custodial parent is a recipient of services under Title IV-D of the federal Social Security Act, issued on or after October 1, 1996, the court entering such order shall enter a separate order for withholding which shall take effect immediately without any requirement that the obligor be delinquent in payment. All such orders for support issued prior to October 1, 1996, shall, by operation of law, be amended to conform with the provisions contained herein. All such orders for support issued shall:

(a) Contain a provision for monthly income withholding procedures to take effect in the event the obligor becomes delinquent in paying the order for support without further amendment to the order or further action by the court; and

(b) Require that the payor withhold any additional amount for delinquency specified in any order if accompanied by an affidavit of accounting, a notarized record of overdue payments, official payment record or an attested judgment for delinquency or contempt. Any person who willfully and knowingly files a false affidavit, record or judgment shall be subject to a fine of not more than One Thousand Dollars (\$1,000.00). The Department of Human Services shall be the designated agency to receive payments made by income withholding in child support orders enforced by the department. All withholding orders shall be on a form as prescribed by the department.

(2) Upon entry of any order for support by a court of this state where the custodial parent is not a recipient of services under Title IV-D of the federal Social Security Act, issued or modified or found to be in arrears on or after January 1, 1994, the court entering such order shall enter a separate order for withholding which shall take effect immediately. Such orders shall not be subject to immediate income withholding under this subsection: (a) if one (1) of the parties (i.e., noncustodial or custodial parent) demonstrates, and the court finds, that there is good cause not to require immediate income withholding, or (b) if both parties agree in writing to an alternative arrangement. The Department of Human Services shall be the designated agency to receive payments made by income withholding in all child support orders. Withholding orders shall be on a form as prescribed by the department.

(3) If a child support order is issued or modified in the state but is not subject to immediate income withholding, it automatically becomes so if the court finds that a support payment is thirty (30) days past due. If the support order was issued or modified in another state but is not subject to immediate income withholding, it becomes subject to immediate income withholding on the date on which child support payments are at least thirty (30) days in arrears, or (a) the date as of which the noncustodial parent requests that withholding begin, (b) the date as of which the custodial parent requests that withholding begin, or (c) an earlier date chosen by the court, whichever is earlier.

(4) The clerk of the court shall submit copies of such orders to the obligor's payor, any additional or subsequent payor, and to the Mississippi Department of Human Services Case Registry. The clerk of the court, the obligee's attorney, or the department may serve such immediate order for withholding by first-class mail or personal delivery on the obligor's payor, superintendent, manager, agent or subsequent payor, as the case may be.* * * There shall be no need for further notice, hearing, order, process or procedure before service of said order on the payor or any additional or subsequent payor. The obligor may contest, if grounds exist, service of the order of withholding on additional or subsequent payors, by filing an action with the issuing court. Such filing shall not stay the obligor's duty to support pending judicial determination of the obligor's claim. Nothing herein shall be construed to restrict the authority of the courts of this state from

entering any order it deems appropriate to protect the rights of any parties involved.

(5) The order for withholding shall:

(a) Direct any payor to withhold an amount equal to the order for current support;

(b) Direct any payor to withhold an additional amount, not less than fifteen percent (15%) of the order for support, until payment in full of any delinquency; and

(c) Direct the payor not to withhold in excess of the amounts allowed under Section 303(b) of the Consumer Credit Protection Act, being 15 USCS 1673, as amended.

(6) All orders for withholding may permit the Department of Human Services to withhold through said withholding order additional amounts to recover costs incurred through its efforts to secure the support order, including, but not limited to, all filing fees, court costs, service of process fees, mailing costs, birth certificate certification fee, genetic testing fees, the department's attorney's fees; and, in cases where the state or any of its entities or divisions have provided medical services to the child or the child's mother, all medical costs of prenatal care, birthing, postnatal care and any other medical expenses incurred by the child or by the mother as a consequence of her pregnancy or delivery.

(7) At the time the order for withholding is entered, the clerk of the court shall provide copies of the order for withholding and the order for support to the obligor, which shall be accompanied by a statement of the rights, remedies and duties of the obligor under Sections 93-11-101 through 93-11-119. The clerk of the court shall make copies available to the obligee and to the department or its local attorney.

(8) The order for withholding shall remain in effect for as long as the order for support upon which it is based.

(9) The failure of an order for withholding to state an arrearage is not conclusive of the issue of whether an arrearage is owing.

(10) Any order for withholding entered pursuant to this section shall not be considered a garnishment.

(11) All existing orders for support shall become subject to additional withholding if arrearages occur, subject to court hearing and order. The Department of Human Services

or the obligee or his agent or attorney must send to each delinquent obligor notice that:

(a) The withholding on the delinquency has commenced;

(b) The information along with the required affidavit of accounting, notarized record of overdue payment or attested judgment of delinquency or contempt has been sent to the employer; and

(c) The obligor may file an action with the issuing court on the grounds of mistake of fact. Such filing must be made within thirty (30) days of receipt of the notice and shall not stay the obligor's duty to support pending judicial determination of the obligor's claim.

(12) An employer who complies with an income withholding notice that is regular on its face and which is accompanied by the required accounting affidavit, notarized record of overdue payments or attested judgment of delinquency or contempt shall not be subject to civil liability to any individual or agency for conduct in compliance with the notice.

(13) Any employer who has been served with an order for withholding under this section, which includes a provision for payment of arrears, shall notify the Department of Human Services before making any lump-sum payment of more than Five Hundred Dollars (\$500.00) to the obligor.

An employer to whom this section applies shall notify the Department of Human Services of its intention to make a lump-sum payment at least forty-five (45) days before the planned date of the lump-sum payment, or as soon as the decision is made to make the payment, should that be less than forty-five (45) days. The employer shall not release the lump sum to the obligor until thirty (30) days after the intended date of the payment or until authorization is received from the Department of Human Services, whichever is earlier.

Upon receipt of notice to pay a lump sum from an employer, the Department of Human Services shall provide the employer with a Notice of Lien in accordance with Section 93-11-71 specifying the amount of the lump sum to be withheld for payment of child support arrearage. Unless the lump sum is considered severance pay, any amount of the lump sum up to the entire arrearage may be withheld. If the lump sum is for severance pay, the amount withheld for child support arrearages may not exceed an amount equal to the amount the

employer would have withheld if the severance pay had been paid as the employee's usual earnings.

SECTION 2. Section 93-11-105, Mississippi Code of 1972, is amended as follows:

93-11-105. (1) Notwithstanding the provisions of Section 93-11-103, the Department of Human Services shall be authorized to implement administrative orders for withholding without the necessity of obtaining an order through judicial proceedings. The administrative order for withholding shall be implemented pursuant to a previously rendered order for support and shall be on a form prescribed by the Department of Human Services. Unless inconsistent with the provisions of this section, the order for withholding shall be subject to the same requirements as provided in Sections 93-11-101 through 93-11-118.

(2)* * * A copy of the administrative order shall be transmitted to the obligor by regular mail to the last -known address of the obligor.

(3) The order for withholding shall:

(a) Direct any payor to withhold an amount equal to the order for the current support obligation;

(b) Direct any payor to withhold an additional amount equal to twenty percent (20%) of the current support obligation, unless a different amount has been previously ordered by the court, until payment in full of any delinquency; and

(c) Direct the payor not to withhold in excess of the amounts allowed under Section 303(b) of the Consumer Credit Protection Act, being 15 USCS 1673, as amended.

SECTION 3. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

Senate Bill 2231

Description: Public Service Commission; remove authority to regulate rates of shared utilities in municipalities.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: Passage

Chapter Number: 321

History of Actions:

- | | | | |
|----|-------|-----|------------------------------|
| 1 | 01/21 | (S) | Referred To Energy |
| 2 | 01/30 | (S) | Title Suff Do Pass Comm Sub |
| 3 | 02/06 | (S) | Committee Substitute Adopted |
| 4 | 02/06 | (S) | Passed {Vote} |
| 5 | 02/07 | (S) | Transmitted To House |
| 6 | 02/21 | (H) | Referred To Public Utilities |
| 7 | 02/27 | (H) | Title Suff Do Pass |
| 8 | 02/28 | (H) | Passed {Vote} |
| 9 | 03/01 | (H) | Transmitted To Senate |
| 10 | 03/04 | (S) | Enrolled Bill Signed |
| 11 | 03/04 | (H) | Enrolled Bill Signed |
| 12 | 03/07 | | Approved by Governor |

Code Section: A 077-0003-0015, A 077-0003-0005

----- Additional Information -----

Senate Committee: Energy

House Committee: Public Utilities

Principal Author: Brown

Additional Authors: Polk, Simmons (13th)

Title: AN ACT TO AMEND SECTION 77-3-15, MISSISSIPPI CODE OF 1972, TO REMOVE THE AUTHORITY OF THE PUBLIC SERVICE COMMISSION TO REGULATE THE RATES OF UTILITIES WHEN MORE THAN ONE UTILITY, INCLUDING CO-OPERATIVES, OPERATE WITHIN A MUNICIPALITY; TO AMEND

SECTION 77-3-5, MISSISSIPPI CODE OF 1972, TO CONFORM; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Energy

By: Senator(s) Brown, Polk, Simmons (13th)

Senate Bill 2231

(As Sent to Governor)

AN ACT TO AMEND SECTION 77-3-15, MISSISSIPPI CODE OF 1972, TO REMOVE THE AUTHORITY OF THE PUBLIC SERVICE COMMISSION TO REGULATE THE RATES OF UTILITIES WHEN MORE THAN ONE UTILITY, INCLUDING CO-OPERATIVES, OPERATE WITHIN A MUNICIPALITY; TO AMEND SECTION 77-3-5, MISSISSIPPI CODE OF 1972, TO CONFORM; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 77-3-15, Mississippi Code of 1972, is amended as follows:

77-3-15. Where there shall be two (2) or more persons holding certificates of convenience and necessity for similar operation in the same municipality, such operation may be carried on by such persons within their respective certificated areas and such persons shall be exempt from further application to the commission for extension of or additions to their facilities within their respective certificated areas of said municipality, including any extensions of the corporate limits thereof.

* * * Municipally operated utilities shall not be subject to regulation under this article.

SECTION 2. Section 77-3-5, Mississippi Code of 1972, is amended as follows:

77-3-5. Subject to the limitations imposed in this article and in accordance with the provisions hereof, the Public Service Commission shall have exclusive original jurisdiction over the intrastate business and property of public utilities. However, the commission shall not have jurisdiction over the production and gathering of natural gas or the sale of natural gas in or within the vicinity of the field where produced, or over the facilities and equipment utilized in any such operations, including, but not limited to, such facilities as separators, scrubbers and gasoline plants of all types.

Moreover, the commission shall not have jurisdiction to regulate the rates for the sales and/or distribution:

(a) Of gas, water, electricity or sewage disposal services by municipalities to such persons as said municipalities are authorized by law to serve;

(b) Of gas or electricity by cooperative gas or electric power associations to the members thereof as consumers, except as provided by* * * Section 77-3-17, where service is rendered in a municipality;

(c) Of water or sewage disposal service by nonprofit corporations or associations where the governing body of such corporation or association is elected by the consumers thereof or appointed by the county board of supervisors; or

(d) Of water by districts organized under the provisions of Chapter 45, Laws of 1966-1967, Extraordinary Session.

SECTION 3. This act shall take effect and be in force from and after its passage.

Mississippi Legislature

2013 Regular Session

Senate Bill 2232

Description: Health discount plans; remove repealer on requirements for.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2013

Chapter Number: 316

History of Actions:

- | | | | |
|----|-------|-----|------------------------------|
| 1 | 01/21 | (S) | Referred To Insurance |
| 2 | 01/23 | (S) | Title Suff Do Pass Comm Sub |
| 3 | 02/07 | (S) | Committee Substitute Adopted |
| 4 | 02/07 | (S) | Passed {Vote} |
| 5 | 02/08 | (S) | Transmitted To House |
| 6 | 02/20 | (H) | Referred To Insurance |
| 7 | 02/26 | (H) | Title Suff Do Pass |
| 8 | 02/28 | (H) | Passed {Vote} |
| 9 | 03/01 | (H) | Transmitted To Senate |
| 10 | 03/04 | (S) | Enrolled Bill Signed |
| 11 | 03/04 | (H) | Enrolled Bill Signed |
| 12 | 03/07 | | Approved by Governor |

Code Section: A 083-0064-0001

----- Additional Information -----

Senate Committee: Insurance

House Committee: Insurance

Principal Author: Carmichael

Title: AN ACT TO AMEND SECTION 83-64-1, MISSISSIPPI CODE OF 1972, TO REMOVE THE REPEALER ON THE REQUIREMENTS FOR HEALTH DISCOUNT PLANS; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Insurance

By: Senator(s) Carmichael

Senate Bill 2232

(As Sent to Governor)

AN ACT TO AMEND SECTION 83-64-1, MISSISSIPPI CODE OF 1972, TO REMOVE THE REPEALER ON THE REQUIREMENTS FOR HEALTH DISCOUNT PLANS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 83-64-1, Mississippi Code of 1972, is amended as follows:

83-64-1. (1) "Health discount plan" means a card, program, device, arrangement, contract or mechanism that purports to offer discounts or access to discounts on health care services or supplies that is not insurance or that does not provide coverage for services or benefits regulated under Section 83-9-1 et seq.

(2) A person may not sell, market, promote, advertise or otherwise distribute a health discount plan unless:

(a) Each advertisement, policy, document, information, statement or other communication regarding the health discount plan and the plan itself contain a statement, in bold and prominent type, that the health discount plan is not insurance;

(b) The discounts offered under the health discount plan are specifically authorized by a contract with each provider of the services or supplies listed in conjunction with the plan;

(c) The health discount plan states the name, address and telephone number of the administrator of the plan;

(d) The person makes readily available to the consumer a complete, accurate and up-to-date list of providers participating in the plan that offers discounted health care services or supplies in the consumer's local area and the discounts offered by the providers;

(e) The person provides the consumer the right to cancel the health discount plan within thirty (30) days after purchase of the plan; and

(f) The person provides the consumer with a full refund of all payments made, except for a nominal processing fee, within thirty (30) days after notification of cancellation of the plan under paragraph (e) of this subsection.

(3) The Commissioner of Insurance may adopt regulations to implement this section and to establish additional requirements intended to prohibit unfair or deceptive practices relating to health discount plans.

(4) Rebates and discounts for health discount plans shall not apply to manufacturers of pharmaceuticals or supplies. This section shall not apply to the Division of Medicaid and shall not apply to pharmaceutical manufacturer discount cards.

* * *

SECTION 2. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

Senate Bill 2233

Description: Memorial highway; designate segment of MS Highway 11 in Lamar County as Tyler R. Kilsby and Leon Sims Memorial Highway.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2013

Chapter Number: 326

History of Actions:

- | | | | |
|----|-------|-----|---|
| 1 | 01/21 | (S) | Referred To Highways and Transportation |
| 2 | 02/04 | (S) | Title Suff Do Pass Comm Sub |
| 3 | 02/06 | (S) | Committee Substitute Adopted |
| 4 | 02/06 | (S) | Passed {Vote} |
| 5 | 02/07 | (S) | Transmitted To House |
| 6 | 02/21 | (H) | Referred To Transportation |
| 7 | 02/27 | (H) | Title Suff Do Pass |
| 8 | 02/28 | (H) | Passed {Vote} |
| 9 | 03/01 | (H) | Transmitted To Senate |
| 10 | 03/04 | (S) | Enrolled Bill Signed |
| 11 | 03/04 | (H) | Enrolled Bill Signed |
| 12 | 03/08 | | Approved by Governor |

----- **Additional Information** -----

Senate Committee: Highways and Transportation

House Committee: Transportation

Principal Author: Polk

Additional Authors: Hudson, Fillingane, Harkins, Jackson (15th)

Title: AN ACT TO DESIGNATE A CERTAIN SEGMENT OF MISSISSIPPI HIGHWAY 11 IN LAMAR COUNTY, MISSISSIPPI, AS THE TYLER R. KILSBY AND LEON SIMS MEMORIAL HIGHWAY; TO DESIGNATE A CERTAIN SEGMENT OF MISSISSIPPI HIGHWAY 590 IN JONES COUNTY, MISSISSIPPI, AS THE CARLOS "COACH" MCDANIEL MEMORIAL HIGHWAY; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI SB 2233

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Highways and Transportation

By: Senator(s) Polk, Hudson, Fillingane, Harkins, Jackson
(15th)

Senate Bill 2233

(As Sent to Governor)

AN ACT TO DESIGNATE A CERTAIN SEGMENT OF MISSISSIPPI HIGHWAY 11 IN LAMAR COUNTY, MISSISSIPPI, AS THE TYLER R. KILSBY AND LEON SIMS MEMORIAL HIGHWAY; TO DESIGNATE A CERTAIN SEGMENT OF MISSISSIPPI HIGHWAY 590 IN JONES COUNTY, MISSISSIPPI, AS THE CARLOS "COACH" MCDANIEL MEMORIAL HIGHWAY; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. (1) That reconstructed segment of Mississippi Highway 11 in Lamar County beginning where Mississippi Highway 11 intersects the Norfolk Southern Railroad and extending one thousand eight hundred forty feet (1,840) is designated and shall be known as the Tyler R. Kilsby and Leon Sims Memorial Highway.

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching that segment of highway.

SECTION 2. (1) That segment of Mississippi Highway 590 from U.S. Interstate 59 east to Augusta Road including the Highway 590/29 Bypass in Jones County, is designated and shall be known as the Carlos "Coach" McDaniel Memorial Highway.

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching that segment of highway.

SECTION 3. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

Senate Bill 2238

Description: Elections; increase per diem of election commissioners on election days.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: VRA

Chapter Number: 413

History of Actions:

1	01/21	(S)	Referred To Elections; Accountability, Efficiency, Transparency
2	01/31	(S)	DR - TSDP: EL To AC
3	02/04	(S)	Title Suff Do Pass
4	02/13	(S)	Passed {Vote}
5	02/14	(S)	Transmitted To House
6	02/21	(H)	Referred To Apportionment and Elections; Fees and Salaries of Public Officers
7	02/28	(H)	DR - TSDP: AE To FS
8	03/04	(H)	DR - TSDP: FS To AE
9	03/04	(H)	Title Suff Do Pass
10	03/12	(H)	Passed {Vote}
11	03/13	(H)	Transmitted To Senate
12	03/14	(S)	Enrolled Bill Signed
13	03/14	(H)	Enrolled Bill Signed
14	03/20		Approved by Governor

Code Section: A 023-0015-0153

----- Additional Information -----

Senate Committee: Elections, Accountability, Efficiency, Transparency

House Committee: Apportionment and Elections, Fees and Salaries of Public Officers

Principal Author: McDaniel

Title: AN ACT TO AMEND SECTION 23-15-153, MISSISSIPPI CODE OF 1972, TO AUTHORIZE COMMISSIONERS OF ELECTION TO BE PAID PER DIEM IN THE

AMOUNT OF \$150.00 FOR THE PERFORMANCE OF THEIR DUTIES ON THE DAY OF A GENERAL OR SPECIAL ELECTION; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI SB 2238

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Elections; Accountability, Efficiency, Transparency

By: Senator(s) McDaniel

Senate Bill 2238

(As Sent to Governor)

AN ACT TO AMEND SECTION 23-15-153, MISSISSIPPI CODE OF 1972, TO AUTHORIZE COMMISSIONERS OF ELECTION TO BE PAID PER DIEM IN THE AMOUNT OF \$150.00 FOR THE PERFORMANCE OF THEIR DUTIES ON THE DAY OF A GENERAL OR SPECIAL ELECTION; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 23-15-153, Mississippi Code of 1972, is amended as follows:

23-15-153. (1) At the following times, the commissioners of election shall meet at the office of the registrar and carefully revise the registration books and the pollbooks of the several voting precincts, and shall erase from those books the names of all persons erroneously on the books, or who have died, removed or become disqualified as electors from any cause; and shall register the names of all persons who have duly applied to be registered and have been illegally denied registration:

(a) On the Tuesday after the second Monday in January 1987 and every following year;

(b) On the first Tuesday in the month immediately preceding the first primary election for congressmen in the years when congressmen are elected;

(c) On the first Monday in the month immediately preceding the first primary election for state, state district legislative, county and county district offices in the years in which those offices are elected; and

(d) On the second Monday of September preceding the general election or regular special election day in years in which a general election is not conducted.

Except for the names of those persons who are duly qualified to vote in the election, no name shall be permitted to remain on the registration books and pollbooks; however, no name

shall be erased from the registration books or pollbooks based on a change in the residence of an elector except in accordance with procedures provided for by the National Voter Registration Act of 1993 that are in effect at the time of such erasure. Except as otherwise provided by Section 23-15-573, no person shall vote at any election whose name is not on the pollbook.

(2) Except as provided in this section, and subject to the following annual limitations, the commissioners of election shall be entitled to receive a per diem in the amount of Eighty-four Dollars (\$84.00), to be paid from the county general fund, for every day or period of no less than five (5) hours accumulated over two (2) or more days actually employed in the performance of their duties in the conduct of an election or actually employed in the performance of their duties for the necessary time spent in the revision of the registration books and pollbooks as required in subsection (1) of this section:

(a) In counties having less than fifteen thousand (15,000) residents according to the latest federal decennial census, not more than fifty (50) days per year, with no more than fifteen (15) additional days allowed for the conduct of each election in excess of one (1) occurring in any calendar year;

(b) In counties having fifteen thousand (15,000) residents according to the latest federal decennial census but less than thirty thousand (30,000) residents according to the latest federal decennial census, not more than seventy-five (75) days per year, with no more than twenty-five (25) additional days allowed for the conduct of each election in excess of one (1) occurring in any calendar year;

(c) In counties having thirty thousand (30,000) residents according to the latest federal decennial census but less than seventy thousand (70,000) residents according to the latest federal decennial census, not more than one hundred (100) days per year, with no more than thirty-five (35) additional days allowed for the conduct of each election in excess of one (1) occurring in any calendar year;

(d) In counties having seventy thousand (70,000) residents according to the latest federal decennial census but less than ninety thousand (90,000) residents according to the latest federal decennial census, not more than one hundred twenty-five (125) days per year, with no more than forty-five

(45) additional days allowed for the conduct of each election in excess of one (1) occurring in any calendar year;

(e) In counties having ninety thousand (90,000) residents according to the latest federal decennial census but less than one hundred seventy thousand (170,000) residents according to the latest federal decennial census, not more than one hundred fifty (150) days per year, with no more than fifty-five (55) additional days allowed for the conduct of each election in excess of one (1) occurring in any calendar year;

(f) In counties having one hundred seventy thousand (170,000) residents according to the latest federal decennial census but less than two hundred thousand (200,000) residents according to the latest federal decennial census, not more than one hundred seventy-five (175) days per year, with no more than sixty-five (65) additional days allowed for the conduct of each election in excess of one (1) occurring in any calendar year;

(g) In counties having two hundred thousand (200,000) residents according to the latest federal decennial census but less than two hundred twenty-five thousand (225,000) residents according to the latest federal decennial census, not more than one hundred ninety (190) days per year, with no more than seventy-five (75) additional days allowed for the conduct of each election in excess of one (1) occurring in any calendar year;

(h) In counties having two hundred twenty-five thousand (225,000) residents according to the latest federal decennial census but less than two hundred fifty thousand (250,000) residents according to the latest federal decennial census, not more than two hundred fifteen (215) days per year, with no more than eighty-five (85) additional days allowed for the conduct of each election in excess of one (1) occurring in any calendar year;

(i) In counties having two hundred fifty thousand (250,000) residents according to the latest federal decennial census but less than two hundred seventy-five thousand (275,000) residents according to the latest federal decennial census, not more than two hundred thirty (230) days per year, with no more than ninety-five (95) additional days allowed for the conduct of each election in excess of one (1) occurring in any calendar year;

(j) In counties having two hundred seventy-five thousand (275,000) residents according to the latest federal decennial census or more, not more than two hundred forty (240) days per year, with no more than one hundred five (105) additional days allowed for the conduct of each election in excess of one (1) occurring in any calendar year.

(3) In addition to the number of days authorized in subsection (2) of this section, the board of supervisors of a county may authorize, in its discretion, the commissioners of election to receive a per diem in the amount provided for in subsection (2) of this section, to be paid from the county general fund, for every day or period of no less than five (5) hours accumulated over two (2) or more days actually employed in the performance of their duties in the conduct of an election or actually employed in the performance of their duties for the necessary time spent in the revision of the registration books and pollbooks as required in subsection (1) of this section, for not to exceed five (5) days.

(4) (a) The commissioners of election shall be entitled to receive a per diem in the amount of Eighty-four Dollars (\$84.00), to be paid from the county general fund, not to exceed ten (10) days for every day or period of no less than five (5) hours accumulated over two (2) or more days actually employed in the performance of their duties for the necessary time spent in the revision of the registration books and pollbooks prior to any special election. For purposes of this* * * paragraph, the regular special election day shall not be considered a special election. The annual limitations set forth in subsection (2) of this section shall not apply to this* * * paragraph.

(b) The commissioners of election shall be entitled to receive a per diem in the amount of One Hundred Fifty Dollars (\$150.00), to be paid from the county general fund, for the performance of their duties on the day of any general or special election. The annual limitations set forth in subsection (2) of this section shall apply to this paragraph.

(5) The commissioners of election shall be entitled to receive a per diem in the amount of Eighty-four Dollars (\$84.00), to be paid from the county general fund, not to exceed fourteen (14) days for every day or period of no less than five (5) hours accumulated over two (2) or more days actually employed in the performance of their duties for the

necessary time spent in the revision of the registration books, pollbooks and in the conduct of a runoff election following either a general or special election.

(6) The commissioners of election shall be entitled to receive only one (1) per diem payment for those days when the commissioners of election discharge more than one (1) duty or responsibility on the same day.

(7) The county registrar shall prepare the pollbooks and the county commissioners of election shall prepare the registration books of each municipality located within the county pursuant to an agreement between the county and each municipality in the county. The county commissioners of election and the county registrar shall be paid by each municipality for the actual cost of preparing registration books and pollbooks for the municipality and shall pay each county commissioner of election a per diem in the amount provided for in subsection (2) of this section for each day or period of not less than five (5) hours accumulated over two (2) or more days the commissioners are actually employed in preparing the registration books for the municipality, not to exceed five (5) days. The county commissioners of election and county registrar shall provide copies of the registration books and pollbooks to the municipal clerk of each municipality in the county. The municipality shall pay the county registrar for preparing and printing the pollbooks. A municipality may secure "read only" access to the Statewide Centralized Voter System and print its own pollbooks using this information; however, county commissioners of election shall remain responsible for preparing registration books for municipalities and shall be paid for this duty in accordance with this subsection.

(8) Every commissioner of election shall sign personally a certification setting forth the number of hours actually worked in the performance of the commissioner's official duties and for which the commissioner seeks compensation. The certification must be on a form as prescribed in this subsection. The commissioner's signature is, as a matter of law, made under the commissioner's oath of office and under penalties of perjury.

The certification form shall be as follows:

COUNTY ELECTION COMMISSIONER

2013 GENERAL LAWS OF MISSISSIPPI SB 2238

PER DIEM CLAIM FORM

NAME: _____ COUNTY: _____

ADDRESS: _____ DISTRICT: _____

CITY: _____ ZIP: _____

PURPOSE APPLICABLE ACTUAL PER DIEM

DATE BEGINNING ENDING OF MS CODE HOURS DAYS

WORKED TIME TIME WORK SECTION WORKED EARNED

TOTAL NUMBER OF PER DIEM DAYS EARNED

EXCLUDING ELECTION DAYS

PER DIEM RATE PER DAY EARNED

_____ X 84.00

TOTAL NUMBER PER DIEM DAYS EARNED

FOR ELECTION DAYS

PER DIEM RATE PER DAY EARNED

_____ X 150.00

TOTAL AMOUNT OF PER DIEM CLAIMED

\$ _____

I understand that I am signing this document under my oath as a commissioner of election and under penalties of perjury.

I understand that I am requesting payment from taxpayer funds and that I have an obligation to be specific and truthful as to the amount of hours worked and the compensation I am requesting.

Signed this the _____ day of _____, ____.

Commissioner's Signature

When properly completed and signed, the certification must be filed with the clerk of the county board of supervisors before any payment may be made. The certification will be a public record available for inspection and reproduction immediately upon the oral or written request of any person.

Any person may contest the accuracy of the certification in any respect by notifying the chairman of the commission, any member of the board of supervisors or the clerk of the board of supervisors of such contest at any time before or after payment is made. If the contest is made before payment is made, no payment shall be made as to the contested certificate until the contest is finally disposed of. The person filing the contest shall be entitled to a full hearing, and the clerk of the board of supervisors shall issue subpoenas upon request of the contestor compelling the attendance of witnesses and production of documents and things. The contestor shall have the right to appeal de novo to the circuit court of the involved county, which appeal must be perfected within thirty (30) days from a final decision of the commission, the clerk of the board of supervisors or the board of supervisors, as the case may be.

Any contestor who successfully contests any certification will be awarded all expenses incident to his contest, together with reasonable attorney's fees, which will be awarded upon petition to the chancery court of the involved county upon final disposition of the contest before the election commission, board of supervisors, clerk of the board of supervisors, or, in case of an appeal, final disposition by the court. The commissioner against whom the contest is decided shall be liable for the payment of the expenses and attorney's fees, and the county shall be jointly and severally liable for same.

(9) Any commissioner of election who has not received a certificate issued by the Secretary of State pursuant to Section 23-15-211 indicating that the commissioner of election has received the required elections seminar instruction and that the commissioner of election is fully qualified to conduct an election, shall not receive any compensation authorized by this section, Section 23-15-491 or Section 23-15-239.

SECTION 2. The Attorney General of the State of Mississippi shall submit this act, immediately upon approval by the Governor, or upon approval by the Legislature subsequent to a veto, to the Attorney General of the United States or to the United States District Court for the District of Columbia in accordance with the provisions of the Voting Rights Act of 1965, as amended and extended.

SECTION 3. This act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended.

Mississippi Legislature

2013 Regular Session

Senate Bill 2239

Description: Elections; allow mileage to receiving and returning managers for the use of private vehicles.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: VRA

Chapter Number: 366

History of Actions:

1	01/21	(S)	Referred To Elections; Accountability, Efficiency, Transparency
2	01/31	(S)	DR - TSDP: EL To AC
3	02/04	(S)	Title Suff Do Pass
4	02/07	(S)	Passed {Vote}
5	02/08	(S)	Transmitted To House
6	02/21	(H)	Referred To Apportionment and Elections
7	02/28	(H)	Title Suff Do Pass
8	03/06	(H)	Passed {Vote}
9	03/07	(H)	Transmitted To Senate
10	03/11	(S)	Enrolled Bill Signed
11	03/11	(H)	Enrolled Bill Signed
12	03/18		Approved by Governor

Code Section: A 023-0015-0227

----- Additional Information -----

Senate Committee: Elections, Accountability, Efficiency, Transparency

House Committee: Apportionment and Elections

Principal Author: McDaniel

Additional Authors: Burton, Chassaniol, Gollott, Montgomery

Title: AN ACT TO AMEND SECTION 23-15-227, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT IF A MANAGER OR OTHER PERSON UTILIZES A PRIVATELY OWNED MOTOR VEHICLE TO TRANSPORT CERTAIN NECESSITIES REQUIRED

FOR THE ELECTION TO OR FROM THE PLACE OF VOTING, HE SHALL BE REIMBURSED FOR MILEAGE TRAVELED IN EXCESS OF TEN MILES IN CARRYING OUT THIS DUTY; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI SB 2239

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Elections; Accountability, Efficiency, Transparency
By: Senator(s) McDaniel, Burton, Chassaniol, Gollott,
Montgomery

Senate Bill 2239
(As Sent to Governor)

AN ACT TO AMEND SECTION 23-15-227, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT IF A MANAGER OR OTHER PERSON UTILIZES A PRIVATELY OWNED MOTOR VEHICLE TO TRANSPORT CERTAIN NECESSITIES REQUIRED FOR THE ELECTION TO OR FROM THE PLACE OF VOTING, HE SHALL BE REIMBURSED FOR MILEAGE TRAVELED IN EXCESS OF TEN MILES IN CARRYING OUT THIS DUTY; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 23-15-227, Mississippi Code of 1972, is amended as follows:

23-15-227. (1) The managers and clerks shall be each entitled to Seventy-five Dollars (\$75.00) for each election; however, the board of supervisors may, in its discretion, pay the managers and clerks an additional amount not to exceed Fifty Dollars (\$50.00) per election.

(2) The manager or other person who shall carry to the place of voting, away from the courthouse, the official ballots, ballot boxes, pollbooks and other necessities, shall be allowed Ten Dollars (\$10.00) for each voting precinct for so doing. The manager or other person who acts as returning officer shall be allowed Ten Dollars (\$10.00) for each voting precinct for that service. If a person who performs the duties described in this subsection utilizes a privately owned motor vehicle to perform them, he or she shall receive for each mile actually and necessarily traveled in excess of ten (10) miles, the mileage reimbursement rate allowable to federal employees for the use of a privately owned vehicle while on official travel.

(3) The compensation authorized in this section shall be allowed by the board of supervisors, and shall be payable out of the county treasury.

(4) The compensation provided in this section shall constitute payment in full for the services rendered by the

persons named for any election, whether there be one (1) election or issue voted upon, or more than one (1) election or issue voted upon at the same time.

SECTION 2. The Attorney General of the State of Mississippi shall submit this act, immediately upon approval by the Governor, or upon approval by the Legislature subsequent to a veto, to the Attorney General of the United States or to the United States District Court for the District of Columbia in accordance with the provisions of the Voting Rights Act of 1965, as amended and extended.

SECTION 3. This act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended.

Mississippi Legislature

2013 Regular Session

Senate Bill 2255

Description: Karen's Law; revise punishment for manslaughter of certain child victims.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2013

Chapter Number: 379

History of Actions:

1	01/21	(S)	Referred To Judiciary, Division B
2	01/31	(S)	Title Suff Do Pass
3	02/06	(S)	Passed {Vote}
4	02/07	(S)	Transmitted To House
5	02/21	(H)	Referred To Judiciary B
6	03/04	(H)	Title Suff Do Pass
7	03/05	(H)	Read the Third Time
8	03/12	(H)	Passed {Vote}
9	03/13	(H)	Transmitted To Senate
10	03/14	(S)	Enrolled Bill Signed
11	03/14	(H)	Enrolled Bill Signed
12	03/20		Approved by Governor

Code Section: A 097-0003-0025

----- **Additional Information** -----

Senate Committee: Judiciary, Division B

House Committee: Judiciary B

Principal Author: McDaniel

Title: AN ACT TO BE KNOWN AS "KAREN'S LAW"; TO AMEND SECTION 97-3-25, MISSISSIPPI CODE OF 1972, TO REVISE THE MAXIMUM IMPRISONMENT FOR PERSONS WHO WERE OVER THE AGE OF 21 WHEN CONVICTED OF THE HOMICIDE OF A CHILD OF A CERTAIN AGE; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI SB 2255

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Judiciary, Division B

By: Senator(s) McDaniel

Senate Bill 2255
(As Sent to Governor)

AN ACT TO BE KNOWN AS "KAREN'S LAW"; TO AMEND SECTION 97-3-25, MISSISSIPPI CODE OF 1972, TO REVISE THE MAXIMUM IMPRISONMENT FOR PERSONS WHO WERE OVER THE AGE OF 21 WHEN CONVICTED OF THE HOMICIDE OF A CHILD OF A CERTAIN AGE; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 97-3-25, Mississippi Code of 1972, is amended as follows:

97-3-25. (1) Except as otherwise provided in this section, any person convicted of manslaughter shall be fined in a sum not less than Five Hundred Dollars (\$500.00), or imprisoned in the county jail not more than one (1) year, or both, or in the* * * custody of the Department of Corrections not less than two (2) years, nor more than twenty (20) years.

(2) (a) A person is guilty of child homicide if:

(i) The person is found guilty of manslaughter in circumstances where the killing, although without malice, was intentional and not accidental; and

(ii) The perpetrator was over the age of twenty-one (21) years and the victim was a child under the age of eighteen (18) years.

(b) A person found guilty of child homicide shall be imprisoned in the custody of the Department of Corrections for a term not to exceed thirty (30) years.

SECTION 2. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

Senate Bill 2338

Description: Child support guidelines; presumed to be reasonable for adjusted gross income within a certain range.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2013

Chapter Number: 356

History of Actions:

- 1 01/21 (S) Referred To Public Health and Welfare;
Judiciary, Division A
- 2 01/29 (S) DR - TSDP: PH To JA
- 3 01/31 (S) Title Suff Do Pass
- 4 02/11 (S) Passed {Vote}
- 5 02/12 (S) Transmitted To House
- 6 02/20 (H) Referred To Public Health and Human
Services; Judiciary A
- 7 02/28 (H) DR - TSDP: PH To JA
- 8 02/28 (H) DR - TSDP: JA To PH
- 9 03/01 (H) Title Suff Do Pass
- 10 03/05 (H) Passed {Vote}
- 11 03/06 (H) Transmitted To Senate
- 12 03/11 (S) Enrolled Bill Signed
- 13 03/11 (H) Enrolled Bill Signed
- 14 03/18 Approved by Governor

Code Section: A 043-0019-0101

----- Additional Information -----

Senate Committee: Public Health and Welfare, Judiciary, Division A

House Committee: Public Health and Human Services, Judiciary A

Principal Author: Burton

Title: AN ACT TO AMEND SECTION 43-19-101, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT CHILD SUPPORT GUIDELINES ARE PRESUMED TO BE REASONABLE FOR ADJUSTED GROSS INCOME WITHIN A CERTAIN INCOME RANGE; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI SB 2338

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Public Health and Welfare; Judiciary, Division A

By: Senator(s) Burton

Senate Bill 2338

(As Sent to Governor)

AN ACT TO AMEND SECTION 43-19-101, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT CHILD SUPPORT GUIDELINES ARE PRESUMED TO BE REASONABLE FOR ADJUSTED GROSS INCOME WITHIN A CERTAIN INCOME RANGE; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 43-19-101, Mississippi Code of 1972, is amended as follows:

43-19-101. (1) The following child support award guidelines shall be a rebuttable presumption in all judicial or administrative proceedings regarding the awarding or modifying of child support awards in this state:

Number Of Children Due Support	Percentage Of Adjusted Gross Income That Should Be Awarded For Support
1	14%
2	20%
3	22%
4	24%
5 or more	26%

(2) The guidelines provided for in subsection (1) of this section apply unless the judicial or administrative body awarding or modifying the child support award makes a written finding or specific finding on the record that the application of the guidelines would be unjust or inappropriate in a particular case as determined under the criteria specified in Section 43-19-103.

(3) The amount of "adjusted gross income" as that term is used in subsection (1) of this section shall be calculated as follows:

(a) Determine gross income from all potential sources that may reasonably be expected to be available to the absent

2013 GENERAL LAWS OF MISSISSIPPI SB 2338

parent including, but not limited to, the following: wages and salary income; income from self-employment; income from commissions; income from investments, including dividends, interest income and income on any trust account or property; absent parent's portion of any joint income of both parents; workers' compensation, disability, unemployment, annuity and retirement benefits, including an Individual Retirement Account (IRA); any other payments made by any person, private entity, federal or state government or any unit of local government; alimony; any income earned from an interest in or from inherited property; any other form of earned income; and gross income shall exclude any monetary benefits derived from a second household, such as income of the absent parent's current spouse;

(b) Subtract the following legally mandated deductions:

(i) Federal, state and local taxes. Contributions to the payment of taxes over and beyond the actual liability for the taxable year shall not be considered a mandatory deduction;

(ii) Social security contributions;

(iii) Retirement and disability contributions except any voluntary retirement and disability contributions;

(c) If the absent parent is subject to an existing court order for another child or children, subtract the amount of that court-ordered support;

(d) If the absent parent is also the parent of another child or other children residing with him, then the court may subtract an amount that it deems appropriate to account for the needs of said child or children;

(e) Compute the total annual amount of adjusted gross income based on paragraphs (a) through (d), then divide this amount by twelve (12) to obtain the monthly amount of adjusted gross income.

Upon conclusion of the calculation of paragraphs (a) through (e), multiply the monthly amount of adjusted gross income by the appropriate percentage designated in subsection (1) to arrive at the amount of the monthly child support award.

(4) In cases in which the adjusted gross income as defined in this section is more than* * * One Hundred Thousand Dollars (\$100,000.00) or less than* * * Ten Thousand Dollars

2013 GENERAL LAWS OF MISSISSIPPI SB 2338

(\$10,000.00), the court shall make a written finding in the record as to whether or not the application of the guidelines established in this section is reasonable.

(5) The Department of Human Services shall review the appropriateness of these guidelines beginning January 1, 1994, and every four (4) years thereafter and report its findings to the Legislature no later than the first day of the regular legislative session of that year. The Legislature shall thereafter amend these guidelines when it finds that amendment is necessary to ensure that equitable support is being awarded in all cases involving the support of minor children.

(6) All orders involving support of minor children, as a matter of law, shall include reasonable medical support. Notice to the obligated parent's employer that medical support has been ordered shall be on a form as prescribed by the Department of Human Services. In any case in which the support of any child is involved, the court shall make the following findings either on the record or in the judgment:

(a) The availability to all parties of health insurance coverage for the child(ren);

(b) The cost of health insurance coverage to all parties.

The court shall then make appropriate provisions in the judgment for the provision of health insurance coverage for the child(ren) in the manner that is in the best interests of the child(ren). If the court requires the custodial parent to obtain the coverage then its cost shall be taken into account in establishing the child support award. If the court determines that health insurance coverage is not available to any party or that it is not available to either party at a cost that is reasonable as compared to the income of the parties, then the court shall make specific findings as to such either on the record or in the judgment. In that event, the court shall make appropriate provisions in the judgment for the payment of medical expenses of the child(ren) in the absence of health insurance coverage.

SECTION 2. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

Senate Bill 2375

Description: Guardianships; attorney and accounting not required under certain circumstances.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2013

Chapter Number: 339

History of Actions:

- 1 01/21 (S) Referred To Judiciary, Division A
- 2 02/05 (S) Title Suff Do Pass
- 3 02/06 (S) Passed {Vote}
- 4 02/07 (S) Transmitted To House
- 5 02/21 (H) Referred To Judiciary A
- 6 02/28 (H) Title Suff Do Pass
- 7 03/05 (H) Passed {Vote}
- 8 03/05 (H) Motion to Reconsider Entered (Gipson, Baker, Reynolds)
- 9 03/07 (H) Motion to Reconsider Tabled
- 10 03/07 (H) Transmitted To Senate
- 11 03/11 (S) Enrolled Bill Signed
- 12 03/11 (H) Enrolled Bill Signed
- 13 03/14 Approved by Governor

Code Section: A 093-0013-0037, A 093-0013-0055, A 093-0013-0057, A 093-0013-0067, A 093-0013-0077

----- Additional Information -----

Senate Committee: Judiciary, Division A

House Committee: Judiciary A

Principal Author: Tindell

Title: AN ACT TO AMEND SECTION 93-13-37, MISSISSIPPI CODE OF 1972, TO CREATE A CATEGORY OF SPECIAL GENERAL GUARDIAN TO OVERSEE THE

2013 GENERAL LAWS OF MISSISSIPPI SB 2375

PERSON AND AFFAIRS OF CERTAIN MINORS; TO AMEND SECTIONS 93-13-55, 93-13-57, 93-13-67 AND 93-13-77, MISSISSIPPI CODE OF 1972, TO CONFORM AND TO PROVIDE FOR WAIVER OF ANNUAL ACCOUNTINGS AND FINAL ACCOUNTINGS AND CLOSURE OF GUARDIANSHIP FILES IN CERTAIN CIRCUMSTANCES; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI SB 2375

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Judiciary, Division A

By: Senator(s) Tindell

Senate Bill 2375

(As Sent to Governor)

AN ACT TO AMEND SECTION 93-13-37, MISSISSIPPI CODE OF 1972, TO CREATE A CATEGORY OF SPECIAL GENERAL GUARDIAN TO OVERSEE THE PERSON AND AFFAIRS OF CERTAIN MINORS; TO AMEND SECTIONS 93-13-55, 93-13-57, 93-13-67 AND 93-13-77, MISSISSIPPI CODE OF 1972, TO CONFORM AND TO PROVIDE FOR WAIVER OF ANNUAL ACCOUNTINGS AND FINAL ACCOUNTINGS AND CLOSURE OF GUARDIANSHIP FILES IN CERTAIN CIRCUMSTANCES; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 93-13-37, Mississippi Code of 1972, is amended as follows:

93-13-37. (1) If the minor ward* * * has a father or mother, the court, or chancellor in vacation, shall determine whether the expense of maintaining and educating him shall be borne by his guardian or not.

(2) (a) If the minor ward has a father or mother but no parent able to take responsibility for the minor, and the minor's assets do not include any real property, cash-on-hand of no more than Two Hundred Fifty Dollars (\$250.00), and personal property worth no more than One Thousand Dollars (\$1,000.00), and the court finds that it would be in the best interests of the minor, a special general guardian who is related to the minor by blood or marriage may be appointed for the minor. An attorney is not required for this proceeding in chancery court, and the court shall waive annual or final accounting by the special general guardian.

(b) A special general guardian must comply with all relevant provisions of this chapter immediately upon there coming into his hands any realty, personalty or monies in excess of the limitations of this subsection (2).

SECTION 2. Section 93-13-55, Mississippi Code of 1972, is amended as follows:

2013 GENERAL LAWS OF MISSISSIPPI SB 2375

93-13-55. (1) (a) Whenever a guardian shall receive for his ward, by inheritance, bequest or gift, any stocks, bonds or other securities or investments, in which the guardian is not authorized by law to invest the* * * monies of his ward, he shall apply to the court, or chancellor in vacation, for directions as to the disposition of* * * the stocks, bonds or other securities or investments. The court shall determine whether the guardian shall retain* * * the stocks, bonds or other securities or investments in the form in which they were received by the* * * guardian, or sell the same and reinvest the proceeds* * *. If the court or chancellor direct the guardian to retain* * * the stocks, bonds or other securities or investments, responsibility shall not attach thereafter to the guardian* * * as to the sufficiency of* * * the investment.

(b) Whenever a special general guardian appointed under Section 93-13-37 shall receive for his ward, by inheritance, bequest, gift or other acquisition, any property in which the guardian is not authorized by law to invest the monies of his ward, he shall apply to the court, or chancellor in vacation, for directions as to the disposition of the property. If the court or chancellor directs the guardian to retain the property, responsibility shall not attach thereafter to the guardian, but the court, or chancellor in vacation, may impose a duty of accounting if it is found to be in the best interest of the ward and may enforce court rules governing guardianships as the court, in its discretion, deems appropriate.

(2) Nothing in subsection (1) shall be construed to allow the investment of the money of the ward by the guardian in any manner other than is authorized by law.

SECTION 3. Section 93-13-57, Mississippi Code of 1972, is amended as follows:

93-13-57. (1) Whenever the guardian* * * has money of his ward not needed for current expenditures, or directed to be invested for the ward, he shall apply to the court, or chancellor in vacation, for direction as to the disposition he shall make of it. The court or chancellor shall determine whether he shall lend it at interest, and upon what security, or how he shall dispose of it. If the court or chancellor designate the person to whom the loan shall be made, or the security on which it shall be made, and the loan to be so made, responsibility shall not attach thereafter to the guardian; but if the court or chancellor shall entrust him

with discretion in the matter, he shall be bound for the exercise of sound judgment. The court or chancellor in its or his discretion may direct an investment in the bonds of the state or of any county, or municipality thereof, or of a levee board, or of the United States, or in shares of a building and loan association or a savings and loan association or in collateral trust notes registered and authenticated by trust departments of any approved state or national bank or in a common trust established by a bank or trust company, pursuant to the Uniform Common Trust Fund Law of Mississippi. Any guardian who fails to report to the court the fact that he has money of his ward not needed or allowed to be used for current expenditures, and to ask the order of the court as to the disposition of such money, may be chargeable with interest on the same at the rate of eight per centum (8%) per annum during the time of failure.

(2) Whenever a special general guardian appointed pursuant to Section 93-13-37 has money or other property of his ward not in excess of the amounts or values listed, he shall apply to the court, or chancellor in vacation, for direction as to the disposition he shall make of it.

SECTION 4. Section 93-13-67, Mississippi Code of 1972, is amended as follows:

93-13-67. (1) Except as herein provided, and as provided in Section 93-13-7 or 93-13-37, every guardian shall, at least once in each year, and oftener if required, exhibit his account, showing the receipts of money on account of his ward, and showing the annual product of the estate under his management, and the sale or other disposition thereof, and showing also each item of his expenditure in the maintenance and education of his ward and in the preservation and management of his estate, supported by legal vouchers. In the event that the account shall be presented by a bank or trust company which is subject to the supervision of the department of bank supervision of the State of Mississippi or of the comptroller of the currency of the United States and such account, or the petition for the approval of same, shall contain a statement under oath by an officer of said bank or trust company showing that the vouchers covering the disbursements in the account presented are on file with the bank or trust company,* * * the bank or trust company shall not be required to file vouchers.* * *The bank or trust company shall produce* * * the vouchers

for inspection of any interested party or his or her attorney at any time during legal banking hours at the office of* * * the bank or trust company;* * * the court on its own motion or on the motion of any interested party may require that* * * the vouchers be produced and inspected at any hearing of any objections to* * * the annual account.* * * The accounts shall be examined, approved, and allowed by the court in the same way that the accounts of executors and administrators are examined, approved, and allowed. Compliance with the duties required, in this section, of guardian shall be enforced by the same means and in the same manner as is provided in respect to the accounts of executors and administrators.

* * * (a) However, when the funds and personal property of the ward do not exceed the sum or value of Three Thousand Dollars (\$3,000.00) and there is no prospect of further receipt to come into the hands of the guardian other than interest thereon, or in guardianships in which the only funds on hand or to be received by the guardian are funds paid or to be paid by the Department of* * * Human Services for the benefit of the ward, the chancery court or chancellor in vacation, may, for good cause shown, in his discretion and upon being satisfied it is to the best interest and welfare of the ward, authorize the guardian to dispense with further such annual accounts, except such as may be a final account. Furthermore, the chancery court or chancellor in vacation may* * * dispense with* * * annual accounts* * * if the ward's assets consist solely of funds on deposit at any banking corporation, building and loan association or savings and loan association in this state; have been so deposited under order of the court to remain until otherwise ordered; are fully insured; and a certified copy of the order to deposit, properly receipted, furnished the depository.* * * If the court, or chancellor in vacation,* * * authorizes the discontinuance of* * * annual accounts, the guardian may, without further order of the court, from time to time pay the court costs and bond premiums owing by* * * the estate or him as* * * guardian, and, as well, he may likewise pay* * * emergency obligations as he may have been empowered and allowed to do by necessity except for this section; but, he shall not pay from guardianship funds* * * any other sums without further order of such court or chancellor without having first obtained order of the court or chancellor to do so.* * * If emergency expenditure* * * is needed for the immediate and necessary welfare of the ward,* * * it shall at

once be reported to the court, or chancellor in vacation, for approval. Furthermore, the court on its own motion or on the motion of any interested party may require the resumption and continuance of annual accounts* * *.

(b) At the time of any* * * annual account, the court, or a judge thereof in vacation, in its discretion, may allow to the guardian a minimum commission of One Hundred Dollars (\$100.00) per annum for its services, anything in the statutes of this state to the contrary notwithstanding.

(2) If the ward was a minor and the guardianship terminates by any means upon the ward obtaining majority, if a final accounting is not made and the ward does not petition the court to compel a final accounting on or before July 1, 2014, or the twenty-second birthday of the ward, whichever comes last, the court may close its file on the guardianship unless it appears to the court that the court should seek accounting on its own motion.

SECTION 5. Section 93-13-77, Mississippi Code of 1972, is amended as follows:

93-13-77. When the guardianship shall cease in any manner, except as provided in Section 93-13-37 or 93-13-67, the guardian shall make a final settlement of his guardianship* * * by making out and presenting to the court, under oath, his final account, which shall contain a distinct statement of all the balances of his annual accounts, either as debits or credits, and also all other charges, expenditures, and amounts received, and not contained in any previous annual account.* * * The final account shall remain on file for the inspection of the ward, and summons for him shall be issued, which shall notify him to appear on a day not less than one month after service thereof or completion of its publication, and show cause why the final account of the guardian should not be allowed and approved. In the event that the account shall be presented by a bank or trust company which is subject to the supervision of the* * * Mississippi Department of Banking and Consumer Finance or of the comptroller of the currency of the United States and* * * the account, or the petition for the approval of* * * the account, shall contain a statement under oath by an officer of* * * the bank or trust company showing that the vouchers covering the disbursements in the account presented are on file with the* * * bank or trust company,* * * the bank or trust company shall not be required

to file vouchers.* * * The bank or trust company shall produce* * * the vouchers for inspection of any interested party or his or her attorney at any time during legal banking hours at the office of* * * the bank or trust company, and* * * the court on its own motion, or on the motion of any interested party, may require that* * * the vouchers be produced and inspected at the time of hearing of any objections that may be filed to any final account.* * * The court shall examine the final account, and hear the evidence for and against it; and if the court* * * is satisfied, after examination, that the account is just and true, shall make a final decree of approval, or may allow only so much of the account as is right; and in the decree it shall make an allowance to the guardian for his trouble, not exceeding ten per centum (10%) on the value of the estate; and shall also decree that the property of the ward shall be delivered to him, if not already delivered, and that the guardian be discharged.* * * In like manner, and under like restrictions, it shall be made the duty of an executor or administrator of a deceased guardian to make final settlement of their testator's or intestate's guardianship accounts in the chancery court in which the same may be pending; but any ward arriving at the age of twenty-one (21) years may petition the chancery court in which the guardianship is pending to waive the final settlement required by this section and discharge the guardian and his sureties, which petition shall be verified by oath, and the court shall grant the same unless there be reason to suspect that the petition was procured by the guardian through fraud or undue influence over the ward, in which case the court shall require proof of the good faith thereof.

If a final accounting is not made and the ward does not petition the court to compel a final accounting on or before July 1, 2014, or the twenty-second birthday of the ward, whichever comes last, the court may close its file on the guardianship unless it appears to the court that the court should seek accounting on its own motion.

SECTION 6. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

Senate Bill 2418

Description: Perry County property; MS Transportation Commission may donate to US Forest Service or appropriate federal agency.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Two/Thirds

Effective date: Passage

Chapter Number: 319

History of Actions:

1	01/21	(S)	Referred To Public Property; Highways and Transportation
2	01/28	(S)	DR - TSDP: PP To HI
3	02/05	(S)	Title Suff Do Pass
4	02/13	(S)	Passed {Vote}
5	02/14	(S)	Transmitted To House
6	02/21	(H)	Referred To Transportation
7	02/27	(H)	Title Suff Do Pass
8	02/28	(H)	Passed {Vote}
9	03/01	(H)	Transmitted To Senate
10	03/04	(S)	Enrolled Bill Signed
11	03/04	(H)	Enrolled Bill Signed
12	03/07		Approved by Governor

----- **Additional Information** -----

Senate Committee: Public Property, Highways and Transportation

House Committee: Transportation

Principal Author: Blount

Title: AN ACT TO AUTHORIZE THE EXECUTIVE DIRECTOR OF THE MISSISSIPPI DEPARTMENT OF TRANSPORTATION, ON BEHALF OF THE MISSISSIPPI TRANSPORTATION COMMISSION, TO DONATE CERTAIN REAL PROPERTY LOCATED IN PERRY COUNTY, MISSISSIPPI, TO THE UNITED STATES FOREST

SERVICE OR ANOTHER APPROPRIATE FEDERAL AGENCY; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI SB 2418

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Public Property; Highways and Transportation

By: Senator(s) Blount

Senate Bill 2418

(As Sent to Governor)

AN ACT TO AUTHORIZE THE EXECUTIVE DIRECTOR OF THE MISSISSIPPI DEPARTMENT OF TRANSPORTATION, ON BEHALF OF THE MISSISSIPPI TRANSPORTATION COMMISSION, TO DONATE CERTAIN REAL PROPERTY LOCATED IN PERRY COUNTY, MISSISSIPPI, TO THE UNITED STATES FOREST SERVICE OR ANOTHER APPROPRIATE FEDERAL AGENCY; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. The Executive Director of the Mississippi Department of Transportation, on behalf of the Mississippi Transportation Commission, is authorized to donate certain real property located in Perry County, Mississippi, to the United States Forest Service or another appropriate federal agency. The property is described in Deed Book 135, Pages 513-514, Chancery Clerk's Office of Perry County, Mississippi, and is more particularly described as follows:

The East half of Northeast quarter (known as Lot No. 1 and No. 8), Section 35, Township 1 North, Range 11 West, Perry County, Mississippi.

Tax records of Perry County, Mississippi assess the above described lands as being 86 acres, more or less.

Less and except: "All that part of the East One-Half of Northeast Quarter (known as Lot No. 1 and Lot No. 8), Section 35, Township 1 North, Range 11 West, Perry County, Mississippi, lying and being situated East of Black Creek, comprising 32 acres, more or less", as described in Deed Book 166, Pages 15-16, Chancery Clerk's Office of Perry County, Mississippi.

Yielding an aggregate of 54 acres, more or less.

SECTION 2. This act shall take effect and be in force from and after its passage.

Mississippi Legislature

2013 Regular Session

Senate Bill 2419

Description: Professional licenses; certain military-trained applicants and military spouses shall receive by reciprocity when in Mississippi.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Three/Fifths

Effective date: July 1, 2013

Chapter Number: 350

History of Actions:

- 1 01/21 (S) Referred To Veterans and Military Affairs
- 2 01/31 (S) Title Suff Do Pass
- 3 02/07 (S) Passed {Vote}
- 4 02/08 (S) Transmitted To House
- 5 02/21 (H) Referred To Military Affairs;

Appropriations

- 6 02/26 (H) DR - TSDP: MA To AP
- 7 02/28 (H) DR - TSDP: AP To MA
- 8 02/28 (H) Title Suff Do Pass
- 9 02/28 (H) Passed {Vote}
- 10 03/01 (H) Transmitted To Senate
- 11 03/11 (S) Enrolled Bill Signed
- 12 03/11 (H) Enrolled Bill Signed
- 13 03/18 Approved by Governor

Code Section: A 037-0003-0002, A 073-0001-0021, A 073-0001-0023, A 073-0002-0011, A 073-0004-0023, A 073-0005-0021, A 073-0006-0013, A 073-0007-0023, A 073-0009-0024, A 073-0010-0015, A 073-0011-0051, A 073-0013-0035, A 073-0014-0025, A 073-0015-0019, A 073-0015-0021, A 073-0015-0101, A 073-0017-0011, A 073-0019-0025, A 073-0021-0087, A 073-0023-0051, A 073-0023-0053, A 073-0024-0021, A 073-0025-0021, A 073-0027-0005, A 073-0029-0019, A 073-0030-0015, A 073-0031-0014, A 073-0031-0015, A 073-0033-0009, A 073-0034-0051, A 073-0035-0007, A 073-0035-0013, A 073-0036-0031, A 073-0038-0023, A 073-0039-0071, A 073-0053-0013, A 073-0054-

0023, A 073-0060-0025, A 073-0063-0039, A 073-0065-0007, A 073-0067-0025, A 073-0069-0011, A 073-0071-0021, A 073-0073-0011, A 073-0073-0017

----- Additional Information -----

Senate Committee: Veterans and Military Affairs

House Committee: Military Affairs, Appropriations

Principal Author: Montgomery

Additional Authors: Fillingane, Blount, Moran, Burton, Butler (36th), Butler (38th), Carmichael, Chassaniol, Clarke, Collins, Dawkins, Doty, Gandy, Gollott, Hale, Harkins, Hill, Hopson, Horhn, Jackson (11th), Jackson (32nd), Jolly, Jordan, Kirby, Lee, Massey, McDaniel, Parker, Parks, Polk, Simmons (12th), Simmons (13th), Smith, Sojourner, Stone, Tindell, Tollison, Ward, Watson, Wiggins

Title: AN ACT TO PROVIDE THAT OCCUPATIONAL LICENSING BOARDS SHALL ISSUE A LICENSE, CERTIFICATION OR REGISTRATION TO A MILITARY-TRAINED APPLICANT TO ALLOW THE APPLICANT TO LAWFULLY PRACTICE THE APPLICANT'S OCCUPATION IN MISSISSIPPI IF THE APPLICANT SATISFIES CERTAIN CONDITIONS; TO PROVIDE THAT OCCUPATIONAL LICENSING BOARDS SHALL ISSUE A LICENSE, CERTIFICATION OR REGISTRATION TO A MILITARY SPOUSE TO ALLOW THE MILITARY SPOUSE TO LAWFULLY PRACTICE THE MILITARY SPOUSE'S OCCUPATION IN MISSISSIPPI IF THE MILITARY SPOUSE SATISFIES CERTAIN CONDITIONS; TO AUTHORIZE OCCUPATIONAL LICENSING BOARDS TO ISSUE A TEMPORARY PRACTICE PERMIT TO A MILITARY-TRAINED APPLICANT OR MILITARY SPOUSE LICENSED, CERTIFIED OR REGISTERED IN ANOTHER JURISDICTION WHILE THE MILITARY-TRAINED APPLICANT OR MILITARY SPOUSE IS SATISFYING THE REQUIREMENTS FOR LICENSURE UNDER THIS ACT IF THAT JURISDICTION HAS LICENSURE, CERTIFICATION OR REGISTRATION STANDARDS SUBSTANTIALLY EQUIVALENT TO THE STANDARDS FOR LICENSURE, CERTIFICATION OR REGISTRATION OF AN OCCUPATIONAL LICENSING BOARD IN THIS STATE; TO PROVIDE THAT A NONRESIDENT LICENSED, CERTIFIED OR REGISTERED UNDER THIS ACT SHALL BE ENTITLED TO THE SAME RIGHTS AND SUBJECT TO THE SAME OBLIGATIONS AS REQUIRED OF A RESIDENT LICENSED, CERTIFIED OR REGISTERED BY AN OCCUPATIONAL LICENSING BOARD IN THIS STATE; TO PROVIDE THAT EACH OCCUPATIONAL LICENSING BOARD REGULATING AN OCCUPATION IN THIS STATE SHALL IMPLEMENT THE REQUIREMENTS OF THIS ACT WITHIN ONE YEAR FROM THE EFFECTIVE DATE OF THIS ACT; TO AMEND SECTIONS 37-3-2, 73-1-21, 73-1-23, 73-2-11, 73-4-23, 73-5-2i, 73-6-13, 73-7-23, 73-9-24, 73-10-15, 73-11-51, 73-13-35, 73-14-25, 73-15-19, 73-15-21, 73-15-101, 73-17-11, 73-19-25, 73-21-87, 73-23-51, 73-23-53, 73-24-21, 73-25-21, 73-27-5, 73-29-19, 73-30-15, 73-31-14, 73-31-15, 73-33-9, 73-34-51, 73-35-7, 73-35-13, 73-36-31, 73-38-23, 73-39-71, 73-53-13, 73-54-23, 73-60-25, 73-63-39, 73-65-7, 73-67-25, 73-69-11, 73-71-21, 73-73-11 AND 73-73-17, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING PROVISIONS; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI SB 2419

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Veterans and Military Affairs

By: Senator(s) Montgomery, Fillingane, Blount, Moran, Burton, Butler (36th), Butler (38th), Carmichael, Chassaniol, Clarke, Collins, Dawkins, Doty, Gandy, Gollott, Hale, Harkins, Hill, Hopson, Horhn, Jackson (11th), Jackson (32nd), Jolly, Jordan, Kirby, Lee, Massey, McDaniel, Parker, Parks, Polk, Simmons (12th), Simmons (13th), Smith, Sojourner, Stone, Tindell, Tollison, Ward, Watson, Wiggins

Senate Bill 2419

(As Sent to Governor)

AN ACT TO PROVIDE THAT OCCUPATIONAL LICENSING BOARDS SHALL ISSUE A LICENSE, CERTIFICATION OR REGISTRATION TO A MILITARY-TRAINED APPLICANT TO ALLOW THE APPLICANT TO LAWFULLY PRACTICE THE APPLICANT'S OCCUPATION IN MISSISSIPPI IF THE APPLICANT SATISFIES CERTAIN CONDITIONS; TO PROVIDE THAT OCCUPATIONAL LICENSING BOARDS SHALL ISSUE A LICENSE, CERTIFICATION OR REGISTRATION TO A MILITARY SPOUSE TO ALLOW THE MILITARY SPOUSE TO LAWFULLY PRACTICE THE MILITARY SPOUSE'S OCCUPATION IN MISSISSIPPI IF THE MILITARY SPOUSE SATISFIES CERTAIN CONDITIONS; TO AUTHORIZE OCCUPATIONAL LICENSING BOARDS TO ISSUE A TEMPORARY PRACTICE PERMIT TO A MILITARY-TRAINED APPLICANT OR MILITARY SPOUSE LICENSED, CERTIFIED OR REGISTERED IN ANOTHER JURISDICTION WHILE THE MILITARY-TRAINED APPLICANT OR MILITARY SPOUSE IS SATISFYING THE REQUIREMENTS FOR LICENSURE UNDER THIS ACT IF THAT JURISDICTION HAS LICENSURE, CERTIFICATION OR REGISTRATION STANDARDS SUBSTANTIALLY EQUIVALENT TO THE STANDARDS FOR LICENSURE, CERTIFICATION OR REGISTRATION OF AN OCCUPATIONAL LICENSING BOARD IN THIS STATE; TO PROVIDE THAT A NONRESIDENT LICENSED, CERTIFIED OR REGISTERED UNDER THIS ACT SHALL BE ENTITLED TO THE SAME RIGHTS AND SUBJECT TO THE SAME OBLIGATIONS AS REQUIRED OF A RESIDENT LICENSED, CERTIFIED OR REGISTERED BY AN OCCUPATIONAL LICENSING BOARD IN THIS STATE; TO PROVIDE THAT EACH OCCUPATIONAL LICENSING BOARD REGULATING AN OCCUPATION IN THIS STATE SHALL IMPLEMENT THE REQUIREMENTS OF THIS ACT WITHIN ONE YEAR FROM THE EFFECTIVE DATE OF THIS ACT; TO AMEND SECTIONS 37-3-2, 73-1-21, 73-1-23, 73-2-11, 73-4-23, 73-5-21, 73-6-13, 73-7-23, 73-9-24, 73-10-15, 73-11-51, 73-13-35, 73-14-25, 73-15-19, 73-15-21, 73-15-101, 73-17-11, 73-19-25, 73-21-87, 73-23-51, 73-23-53, 73-24-21, 73-25-21,

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73-27-5, 73-29-19, 73-30-15, 73-31-14, 73-31-15, 73-33-9, 73-34-51, 73-35-7, 73-35-13, 73-36-31, 73-38-23, 73-39-71, 73-53-13, 73-54-23, 73-60-25, 73-63-39, 73-65-7, 73-67-25, 73-69-11, 73-71-21, 73-73-11 AND 73-73-17, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING PROVISIONS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. (1) As used in this section, the term:

(a) "License" means any license (other than a privilege license), certificate or other evidence of qualification that an individual is required to obtain before he or she may engage in or represent himself or herself to be a member of a particular profession or occupation.

(b) "Occupational licensing board" means any state board, commission, department or other agency in Mississippi that is established for the primary purpose of regulating the entry of persons into, and/or the conduct of persons within, a particular profession or occupation, and which is authorized to issue licenses. For the purposes of this section, the State Department of Education shall be considered an occupational licensing board when issuing teacher licenses under Section 37-3-2.

(2) Notwithstanding any other provision of law, an occupational licensing board shall issue a license, certification or registration to a military-trained applicant to allow the applicant to lawfully practice the applicant's occupation in Mississippi if, upon application to an occupational licensing board, the applicant satisfies the following conditions:

(a) Has been awarded a military occupational specialty and has done all of the following at a level that is substantially equivalent to or exceeds the requirements for licensure, certification or registration of the occupational licensing board from which the applicant is seeking licensure, certification or registration in this state: completed a military program of training, completed testing or equivalent training and experience as determined by the board, and performed in the occupational specialty.

(b) Has engaged in the active practice of the occupation for which the person is seeking a license, certification or permit from the occupational licensing board in this state

for at least two (2) of the five (5) years preceding the date of the application under this section.

(c) Has not committed any act in any jurisdiction that would have constituted grounds for refusal, suspension or revocation of a license to practice that occupation in this state at the time the act was committed.

(d) Pays any fees required by the occupational licensing board for which the applicant is seeking licensure, certification or registration in this state.

(3) Notwithstanding any other provision of law, an occupational licensing board shall issue a license, certification or registration to a military spouse to allow the military spouse to lawfully practice the military spouse's occupation in Mississippi if, upon application to an occupational licensing board, the military spouse satisfies the following conditions:

(a) Holds a current license, certification or registration from another jurisdiction, and that jurisdiction's requirements for licensure, certification or registration are substantially equivalent to or exceed the requirements for licensure, certification or registration of the occupational licensing board for which the applicant is seeking licensure, certification or registration in this state.

(b) Can demonstrate competency in the occupation through methods as determined by the board, such as having completed continuing education units or having had recent experience for at least two (2) of the five (5) years preceding the date of the application under this section.

(c) Has not committed any act in any jurisdiction that would have constituted grounds for refusal, suspension or revocation of a license to practice that occupation in this state at the time the act was committed.

(d) Is in good standing and has not been disciplined by the agency that had jurisdiction to issue the license, certification or permit.

(e) Pays any fees required by the occupational licensing board for which the applicant is seeking licensure, certification or registration in this state.

(4) All relevant experience of a military service member in the discharge of official duties or, for a military spouse, all relevant experience, including full-time and part-time

experience, regardless of whether in a paid or volunteer capacity, shall be credited in the calculation of years of practice in an occupation as required under subsection (2) or (3) of this section.

(5) A nonresident licensed, certified or registered under this section shall be entitled to the same rights and subject to the same obligations as required of a resident licensed, certified or registered by an occupational licensing board in this state.

(6) An occupational licensing board may issue a temporary practice permit to a military-trained applicant or military spouse licensed, certified or registered in another jurisdiction while the military-trained applicant or military spouse is satisfying the requirements for licensure under subsection (2) or (3) of this section if that jurisdiction has licensure, certification or registration standards substantially equivalent to the standards for licensure, certification or registration of an occupational licensing board in this state. The military-trained applicant or military spouse may practice under the temporary permit until a license, certification or registration is granted or until a notice to deny a license, certification or registration is issued in accordance with rules adopted by the occupational licensing board.

(7) An occupational licensing board may adopt rules necessary to implement this section.

(8) Nothing in this section shall be construed to prohibit a military-trained applicant or military spouse from proceeding under the existing licensure, certification or registration requirements established by an occupational licensing board in this state.

(9) Nothing in this section shall be construed to apply to the practice of law as regulated under Section 73-3-1 et seq.

SECTION 2. Within one (1) year from the effective date of this act, each occupational licensing board regulating an occupation in this state shall implement the requirements of Section 1 of this act.

SECTION 3. Section 37-3-2, Mississippi Code of 1972, is amended as follows:

37-3-2. (1) There is established within the State Department of Education the Commission on Teacher and Administrator

Education, Certification and Licensure and Development. It shall be the purpose and duty of the commission to make recommendations to the State Board of Education regarding standards for the certification and licensure and continuing professional development of those who teach or perform tasks of an educational nature in the public schools of Mississippi.

(2) The commission shall be composed of fifteen (15) qualified members. The membership of the commission shall be composed of the following members to be appointed, three (3) from each congressional district: four (4) classroom teachers; three (3) school administrators; one (1) representative of schools of education of institutions of higher learning located within the state to be recommended by the Board of Trustees of State Institutions of Higher Learning; one (1) representative from the schools of education of independent institutions of higher learning to be recommended by the Board of the Mississippi Association of Independent Colleges; one (1) representative from public community and junior colleges located within the state to be recommended by the State Board for Community and Junior Colleges; one (1) local school board member; and four (4) laypersons. All appointments shall be made by the State Board of Education after consultation with the State Superintendent of Public Education. The first appointments by the State Board of Education shall be made as follows: five (5) members shall be appointed for a term of one (1) year; five (5) members shall be appointed for a term of two (2) years; and five (5) members shall be appointed for a term of three (3) years. Thereafter, all members shall be appointed for a term of four (4) years.

(3) The State Board of Education when making appointments shall designate a chairman. The commission shall meet at least once every two (2) months or more often if needed. Members of the commission shall be compensated at a rate of per diem as authorized by Section 25-3-69 and be reimbursed for actual and necessary expenses as authorized by Section 25-3-41.

(4) (a) An appropriate staff member of the State Department of Education shall be designated and assigned by the State Superintendent of Public Education to serve as executive secretary and coordinator for the commission. No less than two (2) other appropriate staff members of the State Department of Education shall be designated and assigned by the State

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Superintendent of Public Education to serve on the staff of the commission.

(b) An Office of Educator Misconduct Evaluations shall be established within the State Department of Education to assist the commission in responding to infractions and violations, and in conducting hearings and enforcing the provisions of Section 37-3-2(11), (12), (13), (14) and (15), Mississippi Code of 1972, and violations of the Mississippi Educator Code of Ethics.

(5) It shall be the duty of the commission to:

(a) Set standards and criteria, subject to the approval of the State Board of Education, for all educator preparation programs in the state;

(b) Recommend to the State Board of Education each year approval or disapproval of each educator preparation program in the state, subject to a process and schedule determined by the State Board of Education;

(c) Establish, subject to the approval of the State Board of Education, standards for initial teacher certification and licensure in all fields;

(d) Establish, subject to the approval of the State Board of Education, standards for the renewal of teacher licenses in all fields;

(e) Review and evaluate objective measures of teacher performance, such as test scores, which may form part of the licensure process, and to make recommendations for their use;

(f) Review all existing requirements for certification and licensure;

(g) Consult with groups whose work may be affected by the commission's decisions;

(h) Prepare reports from time to time on current practices and issues in the general area of teacher education and certification and licensure;

(i) Hold hearings concerning standards for teachers' and administrators' education and certification and licensure with approval of the State Board of Education;

(j) Hire expert consultants with approval of the State Board of Education;

(k) Set up ad hoc committees to advise on specific areas;
and

(l) Perform such other functions as may fall within their general charge and which may be delegated to them by the State Board of Education.

(6) (a) **Standard License - Approved Program Route.** An educator entering the school system of Mississippi for the first time and meeting all requirements as established by the State Board of Education shall be granted a standard five-year license. Persons who possess two (2) years of classroom experience as an assistant teacher or who have taught for one (1) year in an accredited public or private school shall be allowed to fulfill student teaching requirements under the supervision of a qualified participating teacher approved by an accredited college of education. The local school district in which the assistant teacher is employed shall compensate such assistant teachers at the required salary level during the period of time such individual is completing student teaching requirements. Applicants for a standard license shall submit to the department:

(i) An application on a department form;

(ii) An official transcript of completion of a teacher education program approved by the department or a nationally accredited program, subject to the following: Licensure to teach in Mississippi prekindergarten through kindergarten classrooms shall require completion of a teacher education program or a bachelor of science degree with child development emphasis from a program accredited by the American Association of Family and Consumer Sciences (AAFCS) or by the National Association for Education of Young Children (NAEYC) or by the National Council for Accreditation of Teacher Education (NCATE). Licensure to teach in Mississippi kindergarten, for those applicants who have completed a teacher education program, and in Grade 1 through Grade 4 shall require the completion of an interdisciplinary program of studies. Licenses for Grades 4 through 8 shall require the completion of an interdisciplinary program of studies with two (2) or more areas of concentration. Licensure to teach in Mississippi Grades 7 through 12 shall require a major in an academic field other than education, or a combination of disciplines other than education. Students preparing to teach a subject shall complete a major in the respective subject discipline. All

applicants for standard licensure shall demonstrate that such person's college preparation in those fields was in accordance with the standards set forth by the National Council for Accreditation of Teacher Education (NCATE) or the National Association of State Directors of Teacher Education and Certification (NASDTEC) or, for those applicants who have a bachelor of science degree with child development emphasis, the American Association of Family and Consumer Sciences (AAFCS);

(iii) A copy of test scores evidencing satisfactory completion of nationally administered examinations of achievement, such as the Educational Testing Service's teacher testing examinations; and

(iv) Any other document required by the State Board of Education.

(b) Standard License - Nontraditional Teaching Route. Beginning January 1, 2004, an individual who has a passing score on the Praxis I Basic Skills and Praxis II Specialty Area Test in the requested area of endorsement may apply for the Teach Mississippi Institute (TMI) program to teach students in Grades 7 through 12 if the individual meets the requirements of this paragraph (b). The State Board of Education shall adopt rules requiring that teacher preparation institutions which provide the Teach Mississippi Institute (TMI) program for the preparation of nontraditional teachers shall meet the standards and comply with the provisions of this paragraph.

(i) The Teach Mississippi Institute (TMI) shall include an intensive eight-week, nine-semester-hour summer program or a curriculum of study in which the student matriculates in the fall or spring semester, which shall include, but not be limited to, instruction in education, effective teaching strategies, classroom management, state curriculum requirements, planning and instruction, instructional methods and pedagogy, using test results to improve instruction, and a one (1) semester three-hour supervised internship to be completed while the teacher is employed as a full-time teacher intern in a local school district. The TMI shall be implemented on a pilot program basis, with courses to be offered at up to four (4) locations in the state, with one (1) TMI site to be located in each of the three (3) Mississippi Supreme Court districts.

(ii) The school sponsoring the teacher intern shall enter into a written agreement with the institution providing

the Teach Mississippi Institute (TMI) program, under terms and conditions as agreed upon by the contracting parties, providing that the school district shall provide teacher interns seeking a nontraditional provisional teaching license with a one-year classroom teaching experience. The teacher intern shall successfully complete the one (1) semester three-hour intensive internship in the school district during the semester immediately following successful completion of the TMI and prior to the end of the one-year classroom teaching experience.

(iii) Upon completion of the nine-semester-hour TMI or the fall or spring semester option, the individual shall submit his transcript to the commission for provisional licensure of the intern teacher, and the intern teacher shall be issued a provisional teaching license by the commission, which will allow the individual to legally serve as a teacher while the person completes a nontraditional teacher preparation internship program.

(iv) During the semester of internship in the school district, the teacher preparation institution shall monitor the performance of the intern teacher. The school district that employs the provisional teacher shall supervise the provisional teacher during the teacher's intern year of employment under a nontraditional provisional license, and shall, in consultation with the teacher intern's mentor at the school district of employment, submit to the commission a comprehensive evaluation of the teacher's performance sixty (60) days prior to the expiration of the nontraditional provisional license. If the comprehensive evaluation establishes that the provisional teacher intern's performance fails to meet the standards of the approved nontraditional teacher preparation internship program, the individual shall not be approved for a standard license.

(v) An individual issued a provisional teaching license under this nontraditional route shall successfully complete, at a minimum, a one-year beginning teacher mentoring and induction program administered by the employing school district with the assistance of the State Department of Education.

(vi) Upon successful completion of the TMI and the internship provisional license period, applicants for a Standard License - Nontraditional Route shall submit to the

commission a transcript of successful completion of the twelve (12) semester hours required in the internship program, and the employing school district shall submit to the commission a recommendation for standard licensure of the intern. If the school district recommends licensure, the applicant shall be issued a Standard License - Nontraditional Route which shall be valid for a five-year period and be renewable.

(vii) At the discretion of the teacher preparation institution, the individual shall be allowed to credit the twelve (12) semester hours earned in the nontraditional teacher internship program toward the graduate hours required for a Master of Arts in Teacher (MAT) Degree.

(viii) The local school district in which the nontraditional teacher intern or provisional licensee is employed shall compensate such teacher interns at Step 1 of the required salary level during the period of time such individual is completing teacher internship requirements and shall compensate such Standard License - Nontraditional Route teachers at Step 3 of the required salary level when they complete license requirements.

Implementation of the TMI program provided for under this paragraph (b) shall be contingent upon the availability of funds appropriated specifically for such purpose by the Legislature. Such implementation of the TMI program may not be deemed to prohibit the State Board of Education from developing and implementing additional alternative route teacher licensure programs, as deemed appropriate by the board. The emergency certification program in effect prior to July 1, 2002, shall remain in effect.

A Standard License - Approved Program Route shall be issued for a five-year period, and may be renewed. Recognizing teaching as a profession, a hiring preference shall be granted to persons holding a Standard License - Approved Program Route or Standard License - Nontraditional Teaching Route over persons holding any other license.

(c) **Special License - Expert Citizen.** In order to allow a school district to offer specialized or technical courses, the State Department of Education, in accordance with rules and regulations established by the State Board of Education, may grant a one-year expert citizen-teacher license to local business or other professional personnel to teach in a public school or nonpublic school accredited or approved by the state.

Such person may begin teaching upon his employment by the local school board and licensure by the Mississippi Department of Education. The board shall adopt rules and regulations to administer the expert citizen-teacher license. A Special License - Expert Citizen may be renewed in accordance with the established rules and regulations of the State Department of Education.

(d) **Special License - Nonrenewable.** The State Board of Education is authorized to establish rules and regulations to allow those educators not meeting requirements in subsection (6) (a), (b) or (c) to be licensed for a period of not more than three (3) years, except by special approval of the State Board of Education.

(e) **Nonlicensed Teaching Personnel.** A nonlicensed person may teach for a maximum of three (3) periods per teaching day in a public school or a nonpublic school accredited/approved by the state. Such person shall submit to the department a transcript or record of his education and experience which substantiates his preparation for the subject to be taught and shall meet other qualifications specified by the commission and approved by the State Board of Education. In no case shall any local school board hire nonlicensed personnel as authorized under this paragraph in excess of five percent (5%) of the total number of licensed personnel in any single school.

(f) **Special License - Transitional Bilingual Education.** Beginning July 1, 2003, the commission shall grant special licenses to teachers of transitional bilingual education who possess such qualifications as are prescribed in this section. Teachers of transitional bilingual education shall be compensated by local school boards at not less than one (1) step on the regular salary schedule applicable to permanent teachers licensed under this section. The commission shall grant special licenses to teachers of transitional bilingual education who present the commission with satisfactory evidence that they (i) possess a speaking and reading ability in a language, other than English, in which bilingual education is offered and communicative skills in English; (ii) are in good health and sound moral character; (iii) possess a bachelor's degree or an associate's degree in teacher education from an accredited institution of higher education; (iv) meet such requirements as to courses of study, semester hours therein, experience and training as may be required by the commission;

and (v) are legally present in the United States and possess legal authorization for employment. A teacher of transitional bilingual education serving under a special license shall be under an exemption from standard licensure if he achieves the requisite qualifications therefor. Two (2) years of service by a teacher of transitional bilingual education under such an exemption shall be credited to the teacher in acquiring a Standard Educator License. Nothing in this paragraph shall be deemed to prohibit a local school board from employing a teacher licensed in an appropriate field as approved by the State Department of Education to teach in a program in transitional bilingual education.

(g) In the event any school district meets the highest accreditation standards as defined by the State Board of Education in the accountability system, the State Board of Education, in its discretion, may exempt such school district from any restrictions in paragraph (e) relating to the employment of nonlicensed teaching personnel.

(h) **Highly Qualified Teachers.** Beginning July 1, 2006, any teacher from any state meeting the federal definition of highly qualified, as described in the No Child Left Behind Act, must be granted a standard five-year license by the State Department of Education.

(7) **Administrator License.** The State Board of Education is authorized to establish rules and regulations and to administer the licensure process of the school administrators in the State of Mississippi. There will be four (4) categories of administrator licensure with exceptions only through special approval of the State Board of Education.

(a) **Administrator License - Nonpracticing.** Those educators holding administrative endorsement but having no administrative experience or not serving in an administrative position on January 15, 1997.

(b) **Administrator License - Entry Level.** Those educators holding administrative endorsement and having met the department's qualifications to be eligible for employment in a Mississippi school district. Administrator License - Entry Level shall be issued for a five-year period and shall be nonrenewable.

(c) Standard Administrator License - Career Level.

An administrator who has met all the requirements of the department for standard administrator licensure.

(d) Administrator License - Nontraditional Route.

The board may establish a nontraditional route for licensing administrative personnel. Such nontraditional route for administrative licensure shall be available for persons holding, but not limited to, a master of business administration degree, a master of public administration degree, a master of public planning and policy degree or a doctor of jurisprudence degree from an accredited college or university, with five (5) years of administrative or supervisory experience. Successful completion of the requirements of alternate route licensure for administrators shall qualify the person for a standard administrator license.

Individuals seeking school administrator licensure under paragraph (b), (c) or (d) shall successfully complete a training program and an assessment process prescribed by the State Board of Education. All applicants for school administrator licensure shall meet all requirements prescribed by the department under paragraph (b), (c) or (d), and the cost of the assessment process required shall be paid by the applicant.

(8) Reciprocity. (a) The department shall grant a standard license to any individual who possesses a valid standard license from another state and meets minimum Mississippi license requirements or equivalent requirements as determined by the State Board of Education. The issuance of a license by reciprocity to a military-trained applicant or military spouse shall be subject to the provisions of Section 1 of this act.

(b) The department shall grant a nonrenewable special license to any individual who possesses a credential which is less than a standard license or certification from another state. Such special license shall be valid for the current school year plus one (1) additional school year to expire on June 30 of the second year, not to exceed a total period of twenty-four (24) months, during which time the applicant shall be required to complete the requirements for a standard license in Mississippi.

(9) Renewal and Reinstatement of Licenses. The State Board of Education is authorized to establish rules and regulations

for the renewal and reinstatement of educator and administrator licenses. Effective May 15, 1997, the valid standard license held by an educator shall be extended five (5) years beyond the expiration date of the license in order to afford the educator adequate time to fulfill new renewal requirements established pursuant to this subsection. An educator completing a master of education, educational specialist or doctor of education degree in May 1997 for the purpose of upgrading the educator's license to a higher class shall be given this extension of five (5) years plus five (5) additional years for completion of a higher degree.

(10) All controversies involving the issuance, revocation, suspension or any change whatsoever in the licensure of an educator required to hold a license shall be initially heard in a hearing de novo, by the commission or by a subcommittee established by the commission and composed of commission members for the purpose of holding hearings. Any complaint seeking the denial of issuance, revocation or suspension of a license shall be by sworn affidavit filed with the Commission of Teacher and Administrator Education, Certification and Licensure and Development. The decision thereon by the commission or its subcommittee shall be final, unless the aggrieved party shall appeal to the State Board of Education, within ten (10) days, of the decision of the committee or its subcommittee. An appeal to the State Board of Education shall be on the record previously made before the commission or its subcommittee unless otherwise provided by rules and regulations adopted by the board. The State Board of Education in its authority may reverse, or remand with instructions, the decision of the committee or its subcommittee. The decision of the State Board of Education shall be final.

(11) The State Board of Education, acting through the commission, may deny an application for any teacher or administrator license for one or more of the following:

(a) Lack of qualifications which are prescribed by law or regulations adopted by the State Board of Education;

(b) The applicant has a physical, emotional or mental disability that renders the applicant unfit to perform the duties authorized by the license, as certified by a licensed psychologist or psychiatrist;

(c) The applicant is actively addicted to or actively dependent on alcohol or other habit-forming drugs or is a

habitual user of narcotics, barbiturates, amphetamines, hallucinogens or other drugs having similar effect, at the time of application for a license;

(d) Revocation or suspension of an applicant's certificate or license by another state;

(e) Fraud or deceit committed by the applicant in securing or attempting to secure such certification and license;

(f) Failing or refusing to furnish reasonable evidence of identification;

(g) The applicant has been convicted, has pled guilty or entered a plea of nolo contendere to a felony, as defined by federal or state law; or

(h) The applicant has been convicted, has pled guilty or entered a plea of nolo contendere to a sex offense as defined by federal or state law.

(12) The State Board of Education, acting on the recommendation of the commission, may revoke or suspend any teacher or administrator license for specified periods of time for one or more of the following:

(a) Breach of contract or abandonment of employment may result in the suspension of the license for one (1) school year as provided in Section 37-9-57;

(b) Obtaining a license by fraudulent means shall result in immediate suspension and continued suspension for one (1) year after correction is made;

(c) Suspension or revocation of a certificate or license by another state shall result in immediate suspension or revocation and shall continue until records in the prior state have been cleared;

(d) The license holder has been convicted, has pled guilty or entered a plea of nolo contendere to a felony, as defined by federal or state law;

(e) The license holder has been convicted, has pled guilty or entered a plea of nolo contendere to a sex offense, as defined by federal or state law;

(f) The license holder knowingly and willfully committing any of the acts affecting validity of mandatory uniform test results as provided in Section 37-16-4(1);

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(g) The license holder has engaged in unethical conduct relating to an educator/student relationship as identified by the State Board of Education in its rules;

(h) The license holder has fondled a student as described in Section 97-5-23, or had any type of sexual involvement with a student as described in Section 97-3-95; or

(i) The license holder has failed to report sexual involvement of a school employee with a student as required by Section 97-5-24.

(13) (a) Dismissal or suspension of a licensed employee by a local school board pursuant to Section 37-9-59 may result in the suspension or revocation of a license for a length of time which shall be determined by the commission and based upon the severity of the offense.

(b) Any offense committed or attempted in any other state shall result in the same penalty as if committed or attempted in this state.

(c) A person may voluntarily surrender a license. The surrender of such license may result in the commission recommending any of the above penalties without the necessity of a hearing. However, any such license which has voluntarily been surrendered by a licensed employee may only be reinstated by a majority vote of all members of the commission present at the meeting called for such purpose.

(14) A person whose license has been suspended on any grounds except criminal grounds may petition for reinstatement of the license after one (1) year from the date of suspension, or after one-half (1/2) of the suspended time has lapsed, whichever is greater. A license suspended or revoked on the criminal grounds may be reinstated upon petition to the commission filed after expiration of the sentence and parole or probationary period imposed upon conviction. A revoked, suspended or surrendered license may be reinstated upon satisfactory showing of evidence of rehabilitation. The commission shall require all who petition for reinstatement to furnish evidence satisfactory to the commission of good character, good mental, emotional and physical health and such other evidence as the commission may deem necessary to establish the petitioner's rehabilitation and fitness to perform the duties authorized by the license.

(15) Reporting procedures and hearing procedures for dealing with infractions under this section shall be promulgated by the commission, subject to the approval of the State Board of Education. The revocation or suspension of a license shall be effected at the time indicated on the notice of suspension or revocation. The commission shall immediately notify the superintendent of the school district or school board where the teacher or administrator is employed of any disciplinary action and also notify the teacher or administrator of such revocation or suspension and shall maintain records of action taken. The State Board of Education may reverse or remand with instructions any decision of the commission regarding a petition for reinstatement of a license, and any such decision of the State Board of Education shall be final.

(16) An appeal from the action of the State Board of Education in denying an application, revoking or suspending a license or otherwise disciplining any person under the provisions of this section shall be filed in the Chancery Court of the First Judicial District of Hinds County, Mississippi, on the record made, including a verbatim transcript of the testimony at the hearing. The appeal shall be filed within thirty (30) days after notification of the action of the board is mailed or served and the proceedings in chancery court shall be conducted as other matters coming before the court. The appeal shall be perfected upon filing notice of the appeal and by the prepayment of all costs, including the cost of preparation of the record of the proceedings by the State Board of Education, and the filing of a bond in the sum of Two Hundred Dollars (\$200.00) conditioned that if the action of the board be affirmed by the chancery court, the applicant or license holder shall pay the costs of the appeal and the action of the chancery court.

(17) All such programs, rules, regulations, standards and criteria recommended or authorized by the commission shall become effective upon approval by the State Board of Education as designated by appropriate orders entered upon the minutes thereof.

(18) The granting of a license shall not be deemed a property right nor a guarantee of employment in any public school district. A license is a privilege indicating minimal eligibility for teaching in the public schools of Mississippi. This section shall in no way alter or abridge the authority

of local school districts to require greater qualifications or standards of performance as a prerequisite of initial or continued employment in such districts.

(19) In addition to the reasons specified in subsections (12) and (13) of this section, the board shall be authorized to suspend the license of any licensee for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a license for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a license suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a license suspended for that purpose, shall be governed by Section 93-11-157 or 93-11-163, as the case may be. Actions taken by the board in suspending a license when required by Section 93-11-157 or 93-11-163 are not actions from which an appeal may be taken under this section. Any appeal of a license suspension that is required by Section 93-11-157 or 93-11-163 shall be taken in accordance with the appeal procedure specified in Section 93-11-157 or 93-11-163, as the case may be, rather than the procedure specified in this section. If there is any conflict between any provision of Section 93-11-157 or 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

SECTION 4. Section 73-1-21, Mississippi Code of 1972, is amended as follows:

73-1-21. Any architect residing outside this state may obtain a certificate to practice in the State of Mississippi by complying with Section 73-1-13, and by paying the fees prescribed by the rules of the board;* * * however, no such nonresident applicant shall receive a certificate to practice in this state unless the applicant furnishes evidence satisfactory to the board that the applicant holds a current and valid registration issued by a registration authority recognized by the board, holds a National Council of Architectural Registration Board's certificate, has never been restrained from practicing architecture, and has never had a certificate or license revoked. Each nonresident applicant shall submit, as a part of the application, a sworn affidavit stating that neither such applicant nor any person in, or agent of, the applicant's firm has practiced or is practicing architectural work in this state prior to the applicant having been licensed

by the board unless such person or agent holds a license to practice architecture in this state. Failure to submit this affidavit is just cause for disapproval of the application. Every applicant for reciprocity registration shall comply fully with the requirements for resident applicants, except that nonresident applicants who met the requirements for issuance of a certificate of registration by the board prior to January 1, 1987, and who, on that date, held a current and valid registration by a registration authority recognized by the board or were qualified exam candidates in another jurisdiction recognized by the board, shall not be required to meet the degree requirements of Section 73-1-13. The board shall have the further right to exercise its discretion as to whether such nonresident architect shall be issued such certificate to practice.

The issuance of a certificate by reciprocity to a military-trained applicant or military spouse shall be subject to the provisions of Section 1 of this act.

SECTION 5. Section 73-1-23, Mississippi Code of 1972, is amended as follows:

73-1-23. No temporary license to practice shall be issued by the board, except as authorized under Section 1 of this act.

SECTION 6. Section 73-2-11, Mississippi Code of 1972, is amended as follows:

73-2-11. The board may exempt from examination any applicant who holds a license or certificate to practice landscape architecture issued to him upon examination by a legally constituted board of examiners of any other state or Washington, D.C., or any other territory or possession under the control of the United States, provided that such requirements of the state in which the applicant is registered are equivalent to those of this state.

Each nonresident applicant shall submit, as part of the application, a sworn affidavit stating that neither such applicant nor any person in or agent of the applicant's firm has practiced or is practicing landscape architectural work in this state prior to the applicant having been licensed by the board unless such person or agent holds a license to practice landscape architecture in this state. Failure to submit this affidavit or submitting an affidavit which is false

in any respect shall constitute just cause for denial of the application.

An applicant who is a licensed landscape architect but who was admitted in a jurisdiction which did not offer a written examination acceptable to the board or was admitted without the requirement of passing a written examination may be issued a license to practice landscape architecture in this state upon the taking and passing of any examination or procedure as may be adopted by the board, provided that such applicant meets all other requirements for issuance of a license to practice landscape architecture in this state.

The issuance of a license by reciprocity to a military-trained applicant or military spouse shall be subject to the provisions of Section 1 of this act.

SECTION 7. Section 73-4-23, Mississippi Code of 1972, is amended as follows:

73-4-23. Any auctioneer who is licensed in a state that (a) has requirements equal to the requirements of this chapter, (b) has requirements that have been approved by the commission, after a review of such state's licensing law, and (c) has entered into a reciprocal licensing agreement with the State of Mississippi through such state's regulatory authority over auctioneering, may apply for and be granted a license without examination. Applicants for a license through reciprocity shall furnish the commission by application the same information as that required of resident applicants. In addition to the*
* biennial license fee, nonresidents shall pay to the commission a fee of Two Hundred Fifty Dollars (\$250.00). A nonresident auctioneer shall furnish to the commission a surety bond, obligated to the State of Mississippi, in the amount of Ten Thousand Dollars (\$10,000.00) prior to being issued a license. The bond shall be executed by the person seeking the license as principal and by a corporate surety, licensed to do business in this state, as surety. The bond shall otherwise be in accordance with the provisions of this chapter.

The issuance of a license by reciprocity to a military-trained applicant or military spouse shall be subject to the provisions of Section 1 of this act.

SECTION 8. Section 73-5-21, Mississippi Code of 1972, is amended as follows:

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73-5-21. Any person possessed of the following qualifications shall, upon payment of the required fee, receive a certificate of registration as a registered barber:

(a) Is at least eighteen (18) years old;

(b) Is of good moral character and temperate habits; and

(c) Either has a license or certificate of registration as a practicing barber in another state or country that has substantially the same requirements for licensing or registration of barbers as are contained in this chapter, or can prove by sworn affidavits that he has lawfully practiced as a barber in another state or country for at least five (5) years immediately before making application in this state, or can show to the satisfaction of the board that he had held a rating in a branch of the military service for two (2) or more years that required him to perform the duties of a barber. The issuance of a certificate of registration by reciprocity to a military-trained applicant or military spouse shall be subject to the provisions of Section 1 of this act.

In addition to the above, the board may require the applicant to successfully demonstrate sufficient knowledge of the Barber Law of the State of Mississippi, as well as sufficient practical skill by requiring the applicant to take a practical examination approved by the board.

SECTION 9. Section 73-6-13, Mississippi Code of 1972, is amended as follows:

73-6-13. (1) Any adult of good moral character who has (a) graduated from a school or college of chiropractic recognized by the State Board of Chiropractic Examiners, preceded by the successful completion of at least two (2) academic years at an accredited institution of higher learning, or accredited junior college, and (b) successfully completed parts 1, 2, 3 and 4 and the physical modality section of the examination prepared by the National Board of Chiropractic Examiners, shall be entitled to take the examination for a license to practice chiropractic in Mississippi. The State Board of Chiropractic Examiners shall keep on file a list of schools or colleges of chiropractic which are so recognized. No chiropractic school shall be approved unless it is recognized and approved by the Council on Chiropractic Education, its successor or an equivalent accrediting agency, offers an accredited course of study of not less than four (4) academic years of at least

nine (9) months in length, and requires its graduates to receive not less than forty (40) clock hours of instruction in the operation of x-ray machinery and not less than forty (40) clock hours of instruction in x-ray interpretation and diagnosis.

(2) Except as otherwise provided in this section, the State Board of Health shall prescribe rules and regulations for the operation and use of x-ray machines.

(3) The examination to practice chiropractic used by the board shall consist of testing on the statutes and the rules and regulations regarding the practice of chiropractic in the State of Mississippi.

(4) Reciprocity privileges for a chiropractor from another state shall be granted at the board's option on an individual basis and by a majority vote of the State Board of Chiropractic Examiners to an adult of good moral character who (a) is currently an active competent practitioner for at least eight (8) years and holds an active chiropractic license in another state with no disciplinary proceeding or unresolved complaint pending anywhere at the time a license is to be issued by this state, (b) demonstrates having obtained licensure as a chiropractor in another state under the same education requirements which were equivalent to the education requirements in this state to obtain a chiropractic license at the time the applicant obtained the license in the other state, (c) satisfactorily passes the examination administered by the State Board of Chiropractic Examiners, and (d) meets the requirements of Section 73-6-1(3) pertaining to therapeutic modalities. The issuance of a license by reciprocity to a military-trained applicant or military spouse shall be subject to the provisions of Section 1 of this act.

SECTION 10. Section 73-7-23, Mississippi Code of 1972, is amended as follows:

73-7-23. The board may, upon application, issue a license by reciprocity to any cosmetologist, esthetician, manicurist or wig specialist over the age of seventeen (17) years from any other state who has satisfactorily completed the required number of accredited hours in that state, provided the state board from which the applicant comes issues to cosmetologists, estheticians, manicurists or wig specialists, as the case may be, from the State of Mississippi a license under the same conditions. Applications must be accompanied by (a) proof

satisfactory to the board that the required hours have been completed, and (b) the required reciprocity fee, which shall be paid to the board.

An instructor from any other state may be qualified for instructor's examination upon presenting a valid instructor's license and proof of a high school education or its equivalent, provided that the instructor (a) has had three (3) years or more of experience as a licensed instructor prior to application, (b) can read, write and speak English, and (c) has completed twelve (12) semester hours in college courses approved by the board. Such application must be accompanied by two (2) recent head photographs of the applicant. Applicants shall pay the required examination fee and license fee.

The issuance of a license by reciprocity to a military-trained applicant or military spouse shall be subject to the provisions of Section 1 of this act.

SECTION 11. Section 73-9-24, Mississippi Code of 1972, is amended as follows:

73-9-24. (1) In addition to the method for obtaining a license to practice dentistry or dental hygiene by way of examination as provided by Section 73-9-23, the board, in its sole discretion, may grant a license to a candidate who meets the following criteria:

(a) Submit proof of graduation from a dental school or school of dental hygiene accredited by the Commission on Dental Accreditation of the American Dental Association (ADA), or its successor commission;

(b) Be engaged in the active practice of dentistry or dental hygiene or in full-time dental education or dental hygiene education for the past five (5) years;

(c) Currently hold a valid, unrestricted and unexpired license in a state whose standards for licensure are determined by the board as equivalent to Mississippi's standards, and which state grants reciprocity or licensure by credentials to licensees of the State of Mississippi;

(d) Provides an endorsement from all states in which he or she is currently licensed or has ever been licensed to practice dentistry or dental hygiene;

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(e) Has not been the subject of pending or final disciplinary action in any state in which the applicant has been licensed;

(f) Is not the subject of a pending investigation in any other state or jurisdiction;

(g) Has passed a state or regional clinical licensure examination and, within the past five (5) years, has not failed a clinical licensure examination administered by another state, jurisdiction, or regional licensing board;

(h) Has not failed at any time, a licensure examination administered by the Mississippi State Board of Dental Examiners;

(i) Provides a written statement agreeing to appear for interviews at the request of the board;

(j) Has successfully completed all parts of the National Board Examinations of the Joint Commission on National Dental Examinations, or its successor commission, unless the applicant graduated from an accredited dental or dental hygiene school before 1960;

(k) Successfully passes a written jurisprudence examination;

(l) Provides payment of a nonrefundable application fee as provided in Section 73-9-43; and

(m) In addition, the State Board of Dental Examiners may consider the following in accepting, rejecting or denying an application for licensure by credentialing:

(i) Information from the National Practitioner Data Bank, the Healthcare Integrity and Protection Data Bank and/or the American Association of Dental Examiners Clearinghouse for Disciplinary Information.

(ii) Questioning under oath.

(iii) Results of peer review reports from constituent societies and/or federal dental services.

(iv) Substance abuse testing or treatment.

(v) Background checks for criminal or fraudulent activities.

(vi) Participation in continuing education.

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(vii) A current certificate in cardiopulmonary resuscitation.

(viii) Recent patient case reports and/or oral defense of diagnosis and treatment plans.

(ix) No physical or psychological impairment that would adversely affect the ability to deliver quality dental care.

(x) Agreement to initiate practice in the credentialing jurisdiction within a reasonable period of time.

(xi) Proof of professional liability coverage and that the coverage has not been refused, declined, canceled, nonrenewed or modified.

(xii) Any additional information or documentation that the board may stipulate by rule or regulation as necessary to qualify for a license by credentialing.

(2) The board shall be granted sufficient time to conduct a complete inquiry into the applicant's qualifications for licensure by credentials, and the board may adopt such rules and regulations pertaining to the time needed to conduct investigations and the responsibility of applicants to produce verifiable documentation.

(3) Any applicant failing to meet the criteria in subsection (1) of this section shall not be eligible for a license based on credentials. Upon meeting the criteria in subsection (1) of this section, the Mississippi State Board of Dental Examiners may, in its discretion, issue to the applicant a license to practice dentistry, or dental hygiene, unless grounds for denial of licensure exist as enumerated in Section 73-9-61. Evidence of falsification in the application for licensure through credentialing will result in revocation of the license.

(4) Any applicant applying for a specialty license by credentials must stay within his or her board recognized specialty and must practice only that specialty within the State of Mississippi. A specialty license holder must hold a general dentistry license before obtaining a specialty license.

(5) The issuance of a license by reciprocity to a military-trained applicant or military spouse shall be subject to the provisions of Section 1 of this act.

SECTION 12. Section 73-10-15, Mississippi Code of 1972, is amended as follows:

73-10-15. (1) A nonresident dietitian may practice dietetics in Mississippi for five (5) days per year with current other state's licensure or with current registration with the Commission on Dietetics Registration.

(2) The board may waive the prescribed examination for licensure and grant a license to any person who shall present proof of current licensure as a dietitian in another state, the District of Columbia, or territory of the United States which requires standards for licensure considered by the advisory council to be greater than or equal to the requirements for licensure of this chapter, if such state or territory extends reciprocity to licensees of the State of Mississippi. The issuance of a license by reciprocity to a military-trained applicant or military spouse shall be subject to the provisions of Section 1 of this act.

SECTION 13. Section 73-11-51, Mississippi Code of 1972, is amended as follows:

73-11-51. (1) No person shall engage in the business or practice of funeral service, including embalming, and/or funeral directing or hold himself out as transacting or practicing or being entitled to transact or practice funeral service, including embalming, and/or funeral directing in this state unless duly licensed under the provisions of this chapter.

(2) The board is authorized and empowered to examine applicants for licenses for the practice of funeral service and funeral directing and shall issue the proper license to those persons who successfully pass the applicable examination and otherwise comply with the provisions of this chapter.

(3) To be licensed for the practice of funeral directing under this chapter, a person must furnish satisfactory evidence to the board that he or she:

(a) Is at least eighteen (18) years of age;

(b) Has a high school diploma or the equivalent thereof;

(c) Has served as a resident trainee for not less than twenty-four (24) months under the supervision of a person licensed for the practice of funeral service or funeral directing in this state;

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(d) Has successfully passed a written and/or oral examination as prepared or approved by the board; and

(e) Is of good moral character.

(4) To be licensed for the practice of funeral service under this chapter, a person must furnish satisfactory evidence to the board that he or she:

(a) Is at least eighteen (18) years of age;

(b) Has a high school diploma or the equivalent thereof;

(c) Has successfully completed twelve (12) months or more of academic and professional instruction from an institution accredited by the United States Department of Education for funeral service education and have a certificate of completion from an institution accredited by the American Board of Funeral Service Education or any other successor recognized by the United States Department of Education for funeral service education;

(d) Has served as a resident trainee for not less than twelve (12) months, either before or after graduation from an accredited institution mentioned above, under the supervision of a person licensed for the practice of funeral service in this state and in an establishment licensed in this state;

(e) Has successfully passed the National Conference of Funeral Examiners examination and/or such other examination as approved by the board; and

(f) Is of good moral character.

(5) All applications for examination and license for the practice of funeral service or funeral directing shall be upon forms furnished by the board and shall be accompanied by an examination fee, a licensing fee and a nonrefundable application fee in amounts fixed by the board in accordance with Section 73-11-56. The fee for an initial license, however, may be prorated in proportion to the period of time from the date of issuance to the date of biennial license renewal prescribed in subsection (8) of this section. All applications for examination shall be filed with the board office at least sixty (60) days before the date of examination. A candidate shall be deemed to have abandoned the application for examination if he does not appear on the scheduled date of examination unless such failure to appear has been approved by the board.

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(6) The practice of funeral service or funeral directing must be engaged in at a licensed funeral establishment, at least one (1) of which is listed as the licensee's place of business; and no person, partnership, corporation, association or other organization shall open or maintain a funeral establishment at which to engage in or conduct or hold himself or itself out as engaging in the practice of funeral service or funeral directing until such establishment has complied with the licensing requirements of this chapter. A license for the practice of funeral service or funeral directing shall be used only at licensed funeral establishments; however, this provision shall not prevent a person licensed for the practice of funeral service or funeral directing from conducting a funeral service at a church, a residence, public hall, lodge room or cemetery chapel, if such person maintains a fixed licensed funeral establishment of his own or is in the employ of or an agent of a licensed funeral establishment.

(7) Any person holding a valid, unrevoked and unexpired nonreciprocal license in another state or territory having requirements greater than or equal to those of this state as determined by the board may apply for a license to practice in this state by filing with the board a certified statement from the secretary of the licensing board of the state or territory in which the applicant holds his license certifying to his qualifications and good standing with that board. He/she must also successfully pass a written and/or oral examination on the Mississippi Funeral Service licensing law and rules and regulations as prepared or approved by the board, and must pay a nonrefundable application fee set by the board. If the board finds that the applicant has fulfilled aforesaid requirements and has fulfilled substantially similar requirements of those required for a Mississippi licensee, the board shall grant such license upon receipt of a fee in an amount equal to the renewal fee set by the board for a license for the practice of funeral service or funeral directing, as the case may be, in this state. The board may issue a temporary funeral service or funeral directing work permit before a license is granted, before the next regular meeting of the board, if the applicant for a reciprocal license has complied with all requirements, rules and regulations of the board. The temporary permit will expire at the next regular meeting of the board. The issuance of a license or temporary permit by reciprocity to a military-

trained applicant or military spouse shall be subject to the provisions of Section 1 of this act.

(8) (a) Except as provided in Section 33-1-39, any person holding a license for the practice of funeral service or funeral directing may have the same renewed for a period of two (2) years by making and filing with the board an application on or before the due date. Payment of the renewal fee shall be in an amount set by the board in accordance with Section 73-11-56. The board shall mail the notice of renewal and the due date for the payment of the renewal fee to the last-known address of each licensee at least thirty (30) days before that date. It is the responsibility of the licensee to notify the board in writing of any change of address. An application will be considered late if the application and proper fees are not in the board's office or postmarked by the due date. Failure of a license holder to receive the notice of renewal shall not exempt or excuse a license holder from the requirement of renewing the license on or before the license expiration date.

(b) If the renewal fee is not paid on or postmarked by the due date, the license of such person shall by operation of law automatically expire and become void without further action of the board. The board may reinstate such license if application for licensure is made within a period of five (5) years, upon payment of the renewal fee for the current year, all renewal fees in arrears, and a reinstatement fee. After a period of five (5) years, the licensee must make application, pay the current renewal fee, all fees in arrears, and pass a written and/or oral examination as prepared or approved by the board.

(9) No license shall be assignable or valid for any person other than the original licensee.

(10) The board may, in its discretion, if there is a major disaster or emergency where human death is likely to occur, temporarily authorize the practice of funeral directing and funeral service by persons licensed to practice in another state but not licensed to practice in this state. Only persons licensed in this state, however, may sign death certificates.

(11) Any funeral service technology or mortuary science program accredited by the American Board of Funeral Service Education in the State of Mississippi, as well as students enrolled in such a program, shall be exempt from licensing

under this chapter when embalming or otherwise preparing a deceased human body for disposition as part of a student practicum experience, when the student is directly supervised by an instructor or preceptor who holds a current funeral service license. This exemption shall apply to practicum experiences performed at an accredited institution of funeral service technology or mortuary science program or at a duly licensed funeral establishment or commercial mortuary service. Nothing in this subsection shall be construed to allow any funeral service technology or mortuary science program, or those students enrolled in such a program, to engage in practicum experiences for remuneration.

(12) Each application or filing made under this section shall include the social security number(s) of the applicant in accordance with Section 93-11-64.

SECTION 14. Section 73-13-35, Mississippi Code of 1972, is amended as follows:

73-13-35. The board may, upon application therefor and the payment of a fee in accordance with Section 73-13-25, issue a certificate of licensure as a professional engineer to any person who holds a certificate of qualification or licensure issued to him by proper authority of any state or territory or possession of the United States, or of any country, provided that the applicant's qualifications meet the requirements of Sections 73-13-1 through 73-13-45 and the rules established by the board. The issuance of a certificate of licensure by reciprocity to a military-trained applicant or military spouse shall be subject to the provisions of Section 1 of this act.

SECTION 15. Section 73-14-25, Mississippi Code of 1972, is amended as follows:

73-14-25. The department may license as a hearing aid specialist, and furnish a certificate of licensure, to any applicant who presents evidence, satisfactory to the department of having passed an examination before a similar lawfully authorized examining agency or board of hearing aid specialists of another state or the District of Columbia, if the standards for registration of hearing aid specialists or for licensure as a hearing aid specialist in such state or district are determined by the department to be as high as those of this state, and if that jurisdiction affords licensees of this state reciprocity.

Any person making application for licensure under the provisions of this section may, at the discretion of the board, be required to pass an examination selected by the board.

The issuance of a license by reciprocity to a military-trained applicant or military spouse shall be subject to the provisions of Section 1 of this act.

SECTION 16. Section 73-15-19, Mississippi Code of 1972, is amended as follows:

73-15-19. (1) **Registered nurse applicant qualifications.** Any applicant for a license to practice as a registered nurse shall submit to the board:

(a) An attested written application on a Board of Nursing form;

(b) Written official evidence of completion of a nursing program approved by the Board of Trustees of State Institutions of Higher Learning, or one approved by a legal accrediting agency of another state, territory or possession of the United States, the District of Columbia, or a foreign country which is satisfactory to this board;

(c) Evidence of competence in English related to nursing, provided the first language is not English;

(d) Any other official records required by the board.

In addition to the requirements specified in paragraphs (a) through (d) of this subsection, in order to qualify for a license to practice as a registered nurse, an applicant must have successfully been cleared for licensure through an investigation that shall consist of a determination as to good moral character and verification that the prospective licensee is not guilty of or in violation of any statutory ground for denial of licensure as set forth in Section 73-15-29 or guilty of any offense specified in Section 73-15-33. To assist the board in conducting its licensure investigation, all applicants shall undergo a fingerprint-based criminal history records check of the Mississippi central criminal database and the Federal Bureau of Investigation criminal history database. Each applicant shall submit a full set of his or her fingerprints in a form and manner prescribed by the board, which shall be forwarded to the Mississippi Department

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of Public Safety (department) and the Federal Bureau of Investigation Identification Division for this purpose.

Any and all state or national criminal history records information obtained by the board that is not already a matter of public record shall be deemed nonpublic and confidential information restricted to the exclusive use of the board, its members, officers, investigators, agents and attorneys in evaluating the applicant's eligibility or disqualification for licensure, and shall be exempt from the Mississippi Public Records Act of 1983. Except when introduced into evidence in a hearing before the board to determine licensure, no such information or records related thereto shall, except with the written consent of the applicant or by order of a court of competent jurisdiction, be released or otherwise disclosed by the board to any other person or agency.

The board shall provide to the department the fingerprints of the applicant, any additional information that may be required by the department, and a form signed by the applicant consenting to the check of the criminal records and to the use of the fingerprints and other identifying information required by the state or national repositories.

The board shall charge and collect from the applicant, in addition to all other applicable fees and costs, such amount as may be incurred by the board in requesting and obtaining state and national criminal history records information on the applicant.

The board may, in its discretion, refuse to accept the application of any person who has been convicted of a criminal offense under any provision of Title 97 of the Mississippi Code of 1972, as now or hereafter amended, or any provision of this article.

(2) **Licensure by examination.** (a) Upon the board being satisfied that an applicant for a license as a registered nurse has met the qualifications set forth in subsection (1) of this section, the board shall proceed to examine such applicant in such subjects as the board shall, in its discretion, determine. The subjects in which applicants shall be examined shall be in conformity with curricula in schools of nursing approved by the Board of Trustees of State Institutions of Higher Learning, or one approved by a legal accrediting agency of another state, territory or possession of the United States,

the District of Columbia, or a foreign country which is satisfactory to the board.

(b) The applicant shall be required to pass the written examination as selected by the board.

(c) Upon successful completion of such examination, the board shall issue to the applicant a license to practice as a registered nurse.

(d) The board may use any part or all of the state board test pool examination for registered nurse licensure, its successor examination, or any other nationally standardized examination identified by the board in its rules. The passing score shall be established by the board in its rules.

(3) **Licensure by endorsement.** The board may issue a license to practice nursing as a registered nurse without examination to an applicant who has been duly licensed as a registered nurse under the laws of another state, territory or possession of the United States, the District of Columbia, or a foreign country if, in the opinion of the board, the applicant meets the qualifications required of licensed registered nurses in this state and has previously achieved the passing score or scores on the licensing examination required by this state, at the time of his or her graduation. The issuance of a license by endorsement to a military-trained applicant or military spouse shall be subject to the provisions of Section 1 of this act.

(4) **Requirements for rewriting the examination.** The board shall establish in its rules the requirements for rewriting the examination for those persons failing the examination on the first writing or subsequent rewriting.

(5) **Fee.** The applicant applying for a license by examination or by endorsement to practice as a registered nurse shall pay a fee not to exceed One Hundred Dollars (\$100.00) to the board.

(6) **Temporary permit.** (a) The board may issue a temporary permit to practice nursing to a graduate of an approved school of nursing pending the results of the examination in Mississippi, and to a qualified applicant from another state, territory or possession of the United States, or District of Columbia, or pending licensure procedures as provided for elsewhere in this article. The fee shall not exceed Twenty-five Dollars (\$25.00).

(b) The board may issue a temporary permit for a period of ninety (90) days to a registered nurse who is currently licensed in another state, territory or possession of the United States or the District of Columbia and who is an applicant for licensure by endorsement. Such permit is not renewable except by board action. The issuance of a temporary permit to a military-trained applicant or military spouse shall be subject to the provisions of Section 1 of this act.

(c) The board may issue a temporary permit to a graduate of an approved school of nursing pending the results of the first licensing examination scheduled after application. Such permit is not renewable except by board action.

(d) The board may issue a temporary permit for a period of thirty (30) days to any registered nurse during the time enrolled in a nursing reorientation program. This time period may be extended by board action. The fee shall not exceed Twenty-five Dollars (\$25.00).

(e) The board may adopt such regulations as are necessary to limit the practice of persons to whom temporary permits are issued.

(7) **Temporary license.** The board may issue a temporary license to practice nursing at a youth camp licensed by the State Board of Health to nonresident registered nurses and retired resident registered nurses under the provisions of Section 75-74-8.

(8) **Title and abbreviation.** Any person who holds a license or holds the privilege to practice as a registered nurse in this state shall have the right to use the title "registered nurse" and the abbreviation "R.N." No other person shall assume such title or use such abbreviation, or any words, letters, signs or devices to indicate that the person using the same is a registered nurse.

(9) **Registered nurses licensed under a previous law.** Any person holding a license to practice nursing as a registered nurse issued by this board which is valid on July 1, 1981, shall thereafter be deemed to be licensed as a registered nurse under the provisions of this article upon payment of the fee provided in Section 73-15-27.

(10) Each application or filing made under this section shall include the social security number(s) of the applicant in accordance with Section 93-11-64.

SECTION 17. Section 73-15-21, Mississippi Code of 1972, is amended as follows:

73-15-21. (1) **Licensed practical nurse applicant qualifications.** Any applicant for a license to practice practical nursing as a licensed practical nurse shall submit to the board:

(a) An attested written application on a Board of Nursing form;

(b) A diploma from an approved high school or the equivalent thereof, as determined by the appropriate educational agency;

(c) Written official evidence of completion of a practical nursing program approved by the State Department of Education through its Division of Vocational Education, or one approved by a legal accrediting agency of another state, territory or possession of the United States, the District of Columbia, or a foreign country which is satisfactory to this board;

(d) Evidence of competence in English related to nursing, provided the first language is not English;

(e) Any other official records required by the board.

In addition to the requirements specified in paragraphs (a) through (e) of this subsection, in order to qualify for a license to practice practical nursing as a licensed practical nurse, an applicant must have successfully been cleared for licensure through an investigation that shall consist of a determination as to good moral character and verification that the prospective licensee is not guilty of or in violation of any statutory ground for denial of licensure as set forth in Section 73-15-29 or guilty of any offense specified in Section 73-15-33. To assist the board in conducting its licensure investigation, all applicants shall undergo a fingerprint-based criminal history records check of the Mississippi central criminal database and the Federal Bureau of Investigation criminal history database. Each applicant shall submit a full set of his or her fingerprints in a form and manner prescribed by the board, which shall be forwarded to the Mississippi Department of Public Safety (department) and the Federal Bureau of Investigation Identification Division for this purpose.

Any and all state or national criminal history records information obtained by the board that is not already a matter

of public record shall be deemed nonpublic and confidential information restricted to the exclusive use of the board, its members, officers, investigators, agents and attorneys in evaluating the applicant's eligibility or disqualification for licensure, and shall be exempt from the Mississippi Public Records Act of 1983. Except when introduced into evidence in a hearing before the board to determine licensure, no such information or records related thereto shall, except with the written consent of the applicant or by order of a court of competent jurisdiction, be released or otherwise disclosed by the board to any other person or agency.

The board shall provide to the department the fingerprints of the applicant, any additional information that may be required by the department, and a form signed by the applicant consenting to the check of the criminal records and to the use of the fingerprints and other identifying information required by the state or national repositories.

The board shall charge and collect from the applicant, in addition to all other applicable fees and costs, such amount as may be incurred by the board in requesting and obtaining state and national criminal history records information on the applicant.

The board may, in its discretion, refuse to accept the application of any person who has been convicted of a criminal offense under any provision of Title 97 of the Mississippi Code of 1972, as now or hereafter amended, or any provision of this article.

(2) **Licensure by examination.** (a) Upon the board being satisfied that an applicant for a license as a practical nurse has met the qualifications set forth in subsection (1) of this section, the board shall proceed to examine such applicant in such subjects as the board shall, in its discretion, determine. The subjects in which applicants shall be examined shall be in conformity with curricula in schools of practical nursing approved by the State Department of Education.

(b) The applicant shall be required to pass the written examination selected by the board.

(c) Upon successful completion of such examination, the board shall issue to the applicant a license to practice as a licensed practical nurse.

(d) The board may use any part or all of the state board test pool examination for practical nurse licensure, its successor examination, or any other nationally standardized examination identified by the board in its rules. The passing score shall be established by the board in its rules.

(3) **Licensure by endorsement.** The board may issue a license to practice practical nursing as a licensed practical nurse without examination to an applicant who has been duly licensed as a licensed practical nurse under the laws of another state, territory or possession of the United States, the District of Columbia, or a foreign country if, in the opinion of the board, the applicant meets the qualifications required of licensed practical nurses in this state and has previously achieved the passing score or scores on the licensing examination required by this state at the time of his or her graduation. The issuance of a license by endorsement to a military-trained applicant or military spouse shall be subject to the provisions of Section 1 of this act.

(4) **Licensure by equivalent amount of theory and clinical experience.** In the discretion of the board, former students of a state accredited school preparing students to become registered nurses may be granted permission to take the examination for licensure to practice as a licensed practical nurse, provided the applicant's record or transcript indicates the former student completed an equivalent amount of theory and clinical experiences as required of a graduate of a practical nursing program, and provided the school attended was, at the time of the student's attendance, an accredited school of nursing.

(5) **Requirements for rewriting the examination.** The board shall establish in its rules the requirements for rewriting the examination for those persons failing the examination on the first writing or subsequent writing.

(6) **Fee.** The applicant applying for a license by examination or by endorsement to practice as a licensed practical nurse shall pay a fee not to exceed Sixty Dollars (\$60.00) to the board.

(7) **Temporary permit.** (a) The board may issue a temporary permit to practice practical nursing to a graduate of an approved school of practical nursing pending the results of the examination in Mississippi, and to a qualified applicant from another state, territory or possession of the United States,

or the District of Columbia, pending licensing procedures as provided for elsewhere in this article. The fee shall not exceed Twenty-five Dollars (\$25.00).

(b) The board may issue a temporary permit for a period of ninety (90) days to a licensed practical nurse who is currently licensed in another state, territory or possession of the United States or the District of Columbia and who is an applicant for licensure by endorsement. Such permit is not renewable except by board action. The issuance of a temporary permit to a military-trained applicant or military spouse shall be subject to the provisions of Section 1 of this act.

(c) The board may issue a temporary permit to a graduate of an approved practical nursing education program or an equivalent program satisfactory to the board pending the results of the first licensing examination scheduled after application. Such permit is not renewable except by board action.

(d) The board may issue a temporary permit for a period of thirty (30) days to any licensed practical nurse during the time enrolled in a nursing reorientation program. This time period may be extended by board action. The fee shall not exceed Twenty-five Dollars (\$25.00).

(e) The board may adopt such regulations as are necessary to limit the practice of persons to whom temporary permits are issued.

(8) **Title and abbreviation.** Any person who holds a license or holds the privilege to practice as a licensed practical nurse in this state shall have the right to use the title "licensed practical nurse" and the abbreviation "L.P.N." No other person shall assume such title or use such abbreviation, or any words, letters, signs or devices to indicate that a person using the same is a licensed practical nurse.

(9) **Licensed practical nurses licensed under a previous law.** Any person holding a license to practice nursing as a practical nurse issued by this board which is valid on July 1, 1981, shall thereafter be deemed to be licensed as a practical nurse under the provisions of this article upon payment of the fee prescribed in Section 73-15-27.

(10) Each application or filing made under this section shall include the social security number(s) of the applicant in accordance with Section 93-11-64.

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SECTION 18. Section 73-15-101, Mississippi Code of 1972, is amended as follows:

73-15-101. (1) A statewide program for certification of hemodialysis technicians is created under the Mississippi Board of Nursing.

(2) Unless certified as a certified hemodialysis technician under this section, no person shall:

(a) Practice as a certified hemodialysis technician; or

(b) Use the title "certified hemodialysis technician," "hemodialysis technician," or other title, abbreviation, letters, figures, signs, or devices to indicate or imply that the person is a certified hemodialysis technician.

(3) The Board of Nursing is authorized and empowered to:

(a) Maintain a permanent register of all certified hemodialysis technicians;

(b) Adopt rules and regulations for certified hemodialysis technician training programs, including standards and curricula;

(c) Provide for periodic evaluation of training programs;

(d) Grant, deny or withdraw approval from a training program that fails to meet prescribed standards or fails to maintain a current contract with the board;

(e) Develop, maintain and administer a certification examination, or grant, deny or withdraw approval of a certification examination(s);

(f) Adopt rules and regulations for certification of hemodialysis technicians by examination, endorsement, renewal and reinstatement; however, the certification by endorsement of a military-trained applicant or military spouse shall be subject to the provisions of Section 1 of this act; and

(g) Conduct disciplinary hearings of certified hemodialysis technicians concerning the restriction, denial, suspension, revocation and/or discipline of a certificate holder in any manner specified in rules and regulations of the board.

(4) Any applicant for certification to practice as a hemodialysis technician shall submit to the Board of Nursing:

(a) An attested written application on a Board of Nursing form;

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(b) A diploma from an approved high school or the equivalent thereof, as determined by the appropriate education agency;

(c) Written official evidence of completion of a hemodialysis technician program approved by the Board of Nursing;

(d) Evidence of competence in English related to health care/nursing if the first language is not English;

(e) Written official evidence that the applicant has passed the certification examination as approved by the Board of Nursing; and

(f) Any other official records required by the Board of Nursing.

The Board of Nursing may, in its discretion, refuse to accept the application of any person who has been convicted of a criminal offense under any provision of Title 97 of the Mississippi Code of 1972, or any offense listed in Section 43-11-13(5), or any sex offense included in Section 45-33-23(g), as now or hereafter amended.

(5) Every certificate issued by the Board of Nursing to practice as a certified hemodialysis technician shall be renewed every two (2) years. The certified hemodialysis technician seeking renewal shall submit proof of employment as a certified hemodialysis technician, proof of having met continuing education requirements adopted by the Board of Nursing and any other official records required by the Board of Nursing.

(6) The Board of Nursing shall establish nonrefundable fees necessary for the administration of this section, including, but not limited to, fees for initial certification by initial or later examination, renewal of certification, reinstatement of a lapsed certificate, endorsement, initial review and approval of a training program, and later review and approval of a training program.

SECTION 19. Section 73-17-11, Mississippi Code of 1972, is amended as follows:

73-17-11. (1) From and after July 1, 2011, in order to be eligible to be licensed as a nursing home administrator, an individual must submit evidence satisfactory to the board that he or she:

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(a) Is at least twenty-one (21) years of age;

(b) Is of good moral character, including evidence of a criminal background check within the last six (6) months, under Section 43-11-13 and Section G.407.3 of the Minimum Standards for Institutions for the Aged or Infirm;

(c) Is in good health;

(d) Has satisfied at least one (1) of the following requirements for education and experience:

(i) Has sixty-four (64) hours of college work from an accredited institution and has worked in a supervisory capacity in a Mississippi-licensed nursing home for a minimum of two (2) years immediately before making application for the Administrator-in-Training Program established by board rule;

(ii) Has an associate degree from an accredited institution and has worked in a supervisory capacity in a Mississippi-licensed nursing home for a minimum of two (2) years immediately before making application for the Administrator-in-Training Program established by board rule;

(iii) Has a bachelor's degree in any other field of study from an accredited institution before making application for the Administrator-in-Training Program established by board rule; or

(iv) Has a bachelor's degree in health care administration or a health care related field or business from an accredited institution before making application for the Administrator-in-Training Program established by board rule;

(e) Has (i) completed a nursing home Administrator-in-Training Program and successfully completed the National Association of Long-Term Care Administrator Board (NAB) examination, or (ii) completed an Administrator-in-Training Program in Long-Term Care Administration from an academic institution during which time the institution held National Association of Long-Term Care Administrator Board (NAB) Program Approval through the Academic Approval process, to the satisfaction of the board;

(f) Has successfully passed the National Association of Long-Term Care Administrator Board (NAB) examination and the Mississippi State Board of Nursing Home Administrators examination to test his or her proficiency and basic knowledge

in the area of nursing home administration. The board may establish the frequency of the offering of those examinations and the contents thereof; and

(g) Has met all of the requirements established by federal law.

(2) Reciprocity shall be extended to individuals holding licenses as nursing home administrators in other states, upon proper application and a finding on the part of the board that:

(a) The applicant possesses the basic qualifications listed in this chapter and in the rules and regulations adopted under federal law;

(b) The applicant has met all of the requirements established by federal law; and

(c) The standards for licensure in the other state are at least the substantial equivalent of those in this state, including education and experience, and the applicant has passed both the National Association of Long-Term Care Administrator Board (NAB) and the state exams.

The issuance of a license by reciprocity to a military-trained applicant or military spouse shall be subject to the provisions of Section 1 of this act.

(3) The board may prescribe appropriate fees for the taking of those examinations and for the issuance of licenses. Those fees shall be not more than the cost of the examinations and Five Hundred Dollars (\$500.00) for the issuance of a license. However, the fee for an initial license may be prorated in proportion to the period of time from the date of issuance and the date of biennial license renewal prescribed in subsection (4). All licenses issued under this chapter shall be for a maximum period of two (2) years.

(4) Except as provided in Section 33-1-39, the board may renew licenses biennially upon the payment of a fee to be established by the board, which shall be not more than Five Hundred Dollars (\$500.00), plus any administrative costs for late payment.

(5) Any person who is not licensed under this chapter on July 1, 2011, who makes application with the board on or before June 30, 2012, may qualify for a license under this chapter provided that on or before January 31, 2014, he or she demonstrates to the satisfaction of the board that he or

she (a) meets the eligibility requirements for a nursing home administrator's license prescribed in this section as those requirements existed on June 30, 2011; (b) has successfully completed the Administrator-in-Training Program requirements existing on June 30, 2011; and (c) has paid all required fees for licensure.

(6) This section shall stand repealed on July 1, 2015.

SECTION 20. Section 73-19-25, Mississippi Code of 1972, is amended as follows:

73-19-25. An applicant for a certificate of licensure who has been examined by the state board of another state which, through reciprocity, similarly accredits the holder of a certificate issued by the board of this state to the full privileges of practice within such state, on the payment of a fee of not more than Fifty Dollars (\$50.00) to the* * * board and on filing in the office of the board a true and attested copy of the* * * the license, certified by the president or secretary of the state board issuing the same, and showing also that the standard requirements adopted and enforced by* * * the board are equal to that provided by this state, may, without further examination, receive a certificate of licensure, provided that such applicant has not previously failed at an examination held by the board of this state. The issuance of a certificate of licensure by reciprocity to a military-trained applicant or military spouse shall be subject to the provisions of Section 1 of this act.

SECTION 21. Section 73-21-87, Mississippi Code of 1972, is amended as follows:

73-21-87. (1) To obtain a license to engage in the practice of pharmacy by reciprocity or license transfer, the applicant shall:

(a) Have submitted a written application on the form prescribed by the board;

(b) Be of good moral character;

(c) Have possessed at the time of initial licensure as a pharmacist such other qualifications necessary to have been eligible for licensure at that time in that state;

(d) Have presented to the board proof that any license or licenses granted to the applicant by any other states have not been suspended, revoked, cancelled or otherwise

restricted for any reason except nonrenewal or the failure to obtain required continuing education credits; and

(e) Have paid all fees specified by the board for licensure.

(2) No applicant shall be eligible for licensure by reciprocity or license transfer unless the state in which the applicant was initially licensed also grants a reciprocal license or transfer license to pharmacists licensed by this state under like circumstances and conditions.

(3) The issuance of a license by reciprocity to a military-trained applicant or military spouse shall be subject to the provisions of Section 1 of this act.

(* * * 4) Each application or filing made under this section shall include the social security number(s) of the applicant in accordance with Section 93-11-64* * *.

SECTION 22. Section 73-23-51, Mississippi Code of 1972, is amended as follows:

73-23-51. (1) The board may license as a physical therapist or as a physical therapist assistant, and furnish a certificate of licensure without examination to, any applicant who presents evidence, satisfactory to the board, of having passed an examination before a similar lawfully authorized examining agency or board in physical therapy of another state or the District of Columbia, if the standards for registration in physical therapy or for licensure as a physical therapist assistant in such other state or district are determined by the board to be as high as those of this state. The issuance of a license by reciprocity to a military-trained applicant or military spouse shall be subject to the provisions of Section 1 of this act.

(2) Any person who has been trained as a physical therapist in a foreign country and desires to be licensed under this chapter and who: (a) is of good moral character; (b) holds a diploma from an educational program for physical therapists approved by the board; (c) submits documentary evidence to the board that he has completed a course of professional instruction substantially equivalent to that obtained by an applicant for licensure; (d) demonstrates satisfactory proof of proficiency in the English language; and (e) meets other requirements established by rules of the board, may make application on a form furnished by the board for examination as a foreign-trained physical therapist. At the time of making

such application, the applicant shall pay the fee prescribed by the board, no portion of which shall be returned.

Any person who desires to be licensed under this subsection shall take an examination approved by the board and shall obtain a permanent license. If this requirement is not met, the license of the foreign-trained therapist may be revoked.

SECTION 23. Section 73-23-53, Mississippi Code of 1972, is amended as follows:

73-23-53. (1) A temporary license to practice as a physical therapist or physical therapist assistant may be granted to those persons meeting the requirements stated in Section 73-23-47 and who (a) have not taken the approved examination, or (b) have taken the approved examination but have not received the results of the examination. The temporary license shall be granted for a period not to exceed ninety (90) days. Any physical therapist granted a temporary license under the provisions of this subsection shall restrict his practice to the State of Mississippi and shall be under the direct supervision of a physical therapist licensed in Mississippi (physical therapy assistants shall be under the direct on-site supervision of a Mississippi licensed physical therapist). Documentation verifying the supervision shall be on file with the board before a temporary license is granted.

(2) The board may by rule provide for the issuance of a temporary license to a physical therapist or a physical therapist assistant licensed in another state who is moving into the state and has filed an application with the board for a permanent license in this state. This temporary license will be granted for a period not to exceed sixty (60) days. The issuance of a temporary license to a military-trained applicant or military spouse shall be subject to the provisions of Section 1 of this act.

(3) Any person granted a temporary license who is required to take the approved examination and fails to take the exam as required by the board or does not pass the required exam shall have the temporary license automatically expire by operation of law and without further action of the board and no license of any type shall be issued until such person has passed an approved examination.

(4) Any person who has taken but not passed the required examination in this or another jurisdiction shall not be

eligible for a license of any type until an approved examination is passed.

(5) Any person who has been trained as a physical therapist or physical therapist assistant in a foreign country and desires to be temporarily licensed under this subsection shall, in addition to satisfying such other requirements established by the board, demonstrate proficiency in the English language and meet the other requirements of Section 73-23-51(2) before such temporary license shall be issued.

(6) During a lawfully declared local, state or national disaster or emergency, the board may issue a temporary license to any otherwise qualified physical therapist or physical therapist assistant licensed and in good standing in another state or territory of the United States and who meets such other requirements as the board may prescribe by rule and regulation.

SECTION 24. Section 73-24-21, Mississippi Code of 1972, is amended as follows:

73-24-21. (1) The board shall grant a license to any person certified prior to July 1, 1988, as an Occupational Therapist Registered (OTR) or a Certified Occupational Therapy Assistant (COTA) by the American Occupational Therapy Association (AOTA). The board may waive the examination, education or experience requirements and grant a license to any person certified by AOTA after July 1, 1988, if the board determines the requirements for such certification are equivalent to the requirements for licensure in this chapter.

(2) The board may waive the examination, education or experience requirements and grant a license to any applicant who shall present proof of current licensure as an occupational therapist or occupational therapy assistant in another state, the District of Columbia or territory of the United States which requires standards for licensure considered by the board to be equivalent to the requirements for licensure of this chapter. The issuance of a license by reciprocity to a military-trained applicant or military spouse shall be subject to the provisions of Section 1 of this act.

(3) Foreign trained occupational therapists and occupational therapy assistants shall satisfy the examination requirements of Section 73-24-19. The board shall require foreign trained applicants to furnish proof of good moral character and

completion of educational and supervised fieldwork requirements substantially equal to those contained in Section 73-24-19 before taking the examination.

SECTION 25. Section 73-25-21, Mississippi Code of 1972, is amended as follows:

73-25-21. The State Board of Medical Licensure may grant license to practice medicine without examination as to learning to graduates in medicine or osteopathic medicine who hold license to practice medicine from another state, provided the requirements in such state are equal to those required by the State Board of Medical Licensure* * *. The State Board of Medical Licensure may affiliate with and recognize for the purpose of waiving examination diplomates of the National Board of Medical Examiners, or the National Board of Examiners for Osteopathic Physicians and Surgeons in granting license to practice medicine in Mississippi. In addition, the board may grant a license to practice medicine without examination to Licentiates of the Medical Council of Canada (LMCC) who are graduates of Canadian medical schools which are accredited by the Liaison Committee on Medical Education, as sponsored by the American Medical Association and the Association of American Medical Colleges, and by the Committee for Accreditation of Canadian Medical Schools, as sponsored by the Canadian Medical Association and the Association of Canadian Medical Colleges.

The issuance of a license by reciprocity to a military-trained applicant or military spouse shall be subject to the provisions of Section 1 of this act.

SECTION 26. Section 73-27-5, Mississippi Code of 1972, is amended as follows:

73-27-5. All applicants for license shall have attained the age of twenty-one (21) years, and shall be of good moral character; they shall have had at least four (4) years high school and be graduates of same; they shall have at least one (1) year prepodiatry college education and be graduates of some college of podiatry recognized as being in good standing by the State Board of Medical Licensure. No college of podiatry or chiropody shall be accredited by the board as a college of good standing that does not require for graduation a course of study of at least four (4) years (eight and one-half (8-1/2) months each) and be recognized by the Council on Education of the American Podiatry Association. However, all

podiatrists actively engaged in the practice of podiatry in the State of Mississippi, prior to January 1, 1938, whether graduates or not, shall, upon furnishing proof thereof by displaying their state privilege tax license to the Secretary of the State Board of Medical Licensure, and upon payment of fee of Ten Dollars and Twenty-five Cents (\$10.25), be entitled to a license without an examination, and applications for the license shall be filed not later than sixty (60) days after the passage of this chapter. Upon payment of a fee prescribed by the State Board of Medical Licensure, not to exceed Five Hundred Dollars (\$500.00), a license without examination may be issued to podiatrists of other states maintaining equal statutory requirements for the practice of podiatry and extending the same reciprocal privileges to this state. The State Board of Medical Licensure may affiliate with the National Board of Chiropractic or Podiatry Licensure in granting licenses to practice podiatry in Mississippi, provided the written examination covers at least two-thirds (2/3) of the subjects set forth in Section 73-27-9. The issuance of a license by reciprocity to a military-trained applicant or military spouse shall be subject to the provisions of Section 1 of this act.

To qualify for a Mississippi podiatry license, an applicant must have successfully been cleared for licensure through an investigation that shall consist of a determination as to good moral character and verification that the prospective licensee is not guilty of or in violation of any statutory ground for denial of licensure as set forth in Section 73-27-13. To assist the board in conducting its licensure investigation, all applicants shall undergo a fingerprint-based criminal history records check of the Mississippi central criminal database and the Federal Bureau of Investigation criminal history database. Each applicant shall submit a full set of the applicant's fingerprints in a form and manner prescribed by the board, which shall be forwarded to the Mississippi Department of Public Safety (department) and the Federal Bureau of Investigation Identification Division for this purpose.

Any and all state or national criminal history records information obtained by the board that is not already a matter of public record shall be deemed nonpublic and confidential information restricted to the exclusive use of the board, its members, officers, investigators, agents and attorneys in

evaluating the applicant's eligibility or disqualification for licensure, and shall be exempt from the Mississippi Public Records Act of 1983. Except when introduced into evidence in a hearing before the board to determine licensure, no such information or records related thereto shall, except with the written consent of the applicant or by order of a court of competent jurisdiction, be released or otherwise disclosed by the board to any other person or agency.

The board shall provide to the department the fingerprints of the applicant, any additional information that may be required by the department, and a form signed by the applicant consenting to the check of the criminal records and to the use of the fingerprints and other identifying information required by the state or national repositories.

The board shall charge and collect from the applicant, in addition to all other applicable fees and costs, such amount as may be incurred by the board in requesting and obtaining state and national criminal history records information on the applicant.

Each application or filing made under this section shall include the social security number(s) of the applicant in accordance with Section 93-11-64.

SECTION 27. Section 73-29-19, Mississippi Code of 1972, is amended as follows:

73-29-19. An applicant who is a polygraph examiner licensed under the laws of another state or territory of the United States may be issued a license upon payment of a fee of Fifty Dollars (\$50.00) and the production of satisfactory proof that:

- (1) He is at least twenty-one (21) years of age;
- (2) He is a citizen of the United States;
- (3) He is of good moral character;
- (4) The requirements for the licensing of polygraph examiners in such particular state or territory of the United States were, at the date of the applicant's licensing therein, substantially equivalent to the requirements now in force in this state;
- (5) The applicant had lawfully engaged in the administration of polygraph examinations under the laws of such state or

territory for at least two (2) years prior to his application for license hereunder;

(6) Such other state or territory grants similar reciprocity to license holders of this state; and

(7) He has complied with Section 73-29-17.

The issuance of a license by reciprocity to a military-trained applicant or military spouse shall be subject to the provisions of Section 1 of this act.

SECTION 28. Section 73-30-15, Mississippi Code of 1972, is amended as follows:

73-30-15. The board shall enter into a reciprocal agreement with any state which licenses counselors if the board finds that such state has substantially the same requirements for licensure. The issuance of a license by reciprocity to a military-trained applicant or military spouse shall be subject to the provisions of Section 1 of this act.

SECTION 29. Section 73-31-14, Mississippi Code of 1972, is amended as follows:

73-31-14. (1) Psychologists who are duly licensed in other jurisdictions and not currently under investigation by another licensure board may, upon application for licensure, apply for a temporary license, which shall be valid until the next administration of the oral examination. The temporary license shall be issued upon the applicant's passage of the Examination for Professional Practice of Psychology (EPPP) at the level established by the board in its rules and regulations and equivalent to that required for permanent licensure. Each applicant for a temporary license shall file an application upon a form and in the manner as the board prescribes, accompanied by a fee equal to the amount required for permanent licensure. A temporary license will lapse for any person who has failed the oral examination or has had his or her license suspended or revoked by the board. Procedures for the issuance of temporary licenses shall be established by the board in its rules and regulations. The issuance of a temporary license to a military-trained applicant or military spouse shall be subject to the provisions of Section 1 of this act.

(2) Psychologists who are duly licensed in other jurisdictions may apply for a temporary practice certificate

that allows them to practice psychology on a temporary basis in the State of Mississippi. That practice must be limited in scope and duration, not exceeding thirty (30) days during a consecutive twelve-month period. Applicants for a temporary practice certificate shall provide to the board the nature of the practice before providing that service, and shall make available to the board a current copy of his or her license or verification of a valid license in good standing. Psychologists who receive temporary practice certificates are subject to a jurisprudence examination at the request of the board. This authority for a temporary practice certificate does not apply to a psychologist who has been denied licensure in Mississippi, is a legal resident of Mississippi, or intends to practice full-time or a major portion of their time in Mississippi. Each applicant for a temporary practice certificate shall file an application upon a form and in the manner as the board prescribes, accompanied by a fee in an amount determined by the board, but not to exceed Three Hundred Dollars (\$300.00).

(3) Applicants awaiting licensure in Mississippi are prohibited from the practice of psychology without a temporary license issued by the board. For the purposes of this subsection, the practice of psychology shall be construed without regard to the means of service provision (e.g., face-to-face, telephone, Internet, telehealth).

SECTION 30. Section 73-31-15, Mississippi Code of 1972, is amended as follows:

73-31-15. (1) Upon application accompanied by the proper fee, the board may, without written or oral examination, issue a license to any person who furnishes, upon a form and in the manner as the board prescribes, evidence satisfactory to the board that he or she (a) is licensed or certified as a psychologist by another state, territorial possession of the United States, District of Columbia, Commonwealth of Puerto Rico or Canadian Province, if the requirements for that license or certification are the substantial equivalent of this chapter; or (b) is a diplomate in good standing of the American Board of Examiners in Professional Psychology; or (c) possesses a valid Certificate of Professional Qualification (CPQ) granted by the Association of State and Provincial Psychology Boards.

(2) In addition, the board may issue a license, without written examination, to an applicant who:

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(a) Has at least twenty (20) years of licensure to practice in another state, territorial possession of the United States, District of Columbia, or Commonwealth of Puerto Rico or Canadian Province when that license was based on a doctoral degree; and

(b) Has had no disciplinary sanction during the entire period of licensure; and

(c) Is not currently under investigation by another licensure board; and

(d) Has demonstrated current qualification by successfully passing the oral examination; and

(e) Has completed the appropriate application and paid the fees as required by the board.

(3) The issuance of a license by reciprocity to a military-trained applicant or military spouse shall be subject to the provisions of Section 1 of this act.

SECTION 31. Section 73-33-9, Mississippi Code of 1972, is amended as follows:

73-33-9. The Mississippi State Board of Public Accountancy may, in its discretion, issue a reciprocal certified public accountant license to practice to any holder of any certified public accountant's certificate or license issued under the law of another state, which shall entitle the holder to use the abbreviation, "CPA," in this state provided that the state issuing the original certificate or license grants similar privileges to the certified public accountants of this state. The fee for a license shall be in such reasonable amount as determined by the board. Such license shall not allow the holder thereof to engage in the practice of public accounting as a certified public accountant unless the holder meets the requirements of the Mississippi State Board of Public Accountancy. This section shall apply only to a person who wishes to obtain a license issued by the State of Mississippi and shall not apply to those persons practicing in this state under Section 77-33-17. The issuance of a license by reciprocity to a military-trained applicant or military spouse shall be subject to the provisions of Section 1 of this act.

SECTION 32. Section 73-34-51, Mississippi Code of 1972, is amended as follows:

73-34-51. (1) Each applicant for licensure under this chapter who is not a resident of this state shall submit, with such applicant's application, an irrevocable consent that service of process upon him or her may be made by delivery of the process to the Secretary of State of this state if, in an action against the applicant in a court of this state arising out of the applicant's activities as a real estate appraiser in this state, the plaintiff cannot, in the exercise of due diligence, effect personal service upon the applicant.

(2) If, in the determination of the board, another state or territory or the District of Columbia is deemed to have substantially equivalent licensure laws for real estate appraisers, an applicant for licensure in this state who is licensed under the law of such other state, territory or district may obtain a license as a real estate appraiser in this state upon such terms and conditions as may be determined by the board* * * provided* * * that disciplinary proceedings are not pending against such applicant in his state of licensure. The issuance of a license by reciprocity to a military-trained applicant or military spouse shall be subject to the provisions of Section 1 of this act.

SECTION 33. Section 73-35-7, Mississippi Code of 1972, is amended as follows:

73-35-7. Licenses shall be granted only to persons who present, and to corporations, partnerships, companies or associations whose officers, associates or partners present satisfactory proof to the commission that they are trustworthy and competent to transact the business of a real estate broker or real estate salesperson in such manner as to safeguard the interests of the public. Every person who applies for a resident license as a real estate broker: (a) shall be age twenty-one (21) years or over, and have his legal domicile in the State of Mississippi at the time he applies; (b) shall be subject to the jurisdiction of this state, subject to the income tax laws and other excise laws thereof, subject to the road and bridge privilege tax laws thereof; (c) shall not be an elector in any other state; (d) shall have held a license as an active real estate salesperson for twelve (12) months immediately prior to making application for the broker's examination hereafter specified; (e) shall have successfully completed a minimum of one hundred twenty (120)

hours of courses in real estate as hereafter specified; and (f) shall have successfully completed the real estate broker's examination as hereafter specified.

An applicant who has not held an active real estate salesperson's license for a period of at least twelve (12) months immediately prior to submitting an application shall have successfully completed a minimum of one hundred fifty (150) classroom hours in real estate courses, which courses are acceptable for credit toward a degree at a college or university as approved by the Southern Association of Colleges and Schools.

Every applicant for a resident license as a real estate salesperson shall be age eighteen (18) years or over, shall be a bona fide resident of the State of Mississippi prior to filing his application, and shall have successfully completed a minimum of sixty (60) hours in courses in real estate as hereafter specified; and shall have successfully completed the real estate salesperson's examination as hereafter specified.

The residency requirements set forth in this section shall not apply to those licensees of other states who qualify and obtain nonresident licenses in this state.

The commission is authorized to exempt from such prelicensing educational requirements, in whole or in part, a real estate licensee of another state who desires to obtain a license under this chapter* * *, provided* * * that the prelicensing educational requirements in the other state are determined by the commission to be equivalent to prelicensing educational requirements in this state and provided that such state extends this same privilege or exemption to Mississippi real estate licensees. The issuance of a license by reciprocity to a military-trained applicant or military spouse shall be subject to the provisions of Section 1 of this act.

SECTION 34. Section 73-35-13, Mississippi Code of 1972, is amended as follows:

73-35-13. (1) In addition to proof of his honesty, trustworthiness and good reputation, the applicant shall take a written examination which shall be held at least four (4) times each year at regular intervals and on stated times by the commission and shall test reading, writing, spelling, elementary arithmetic and his general knowledge of the statutes of this state relating to real property,

deeds, mortgages, agreements of sale, agency, contract, leases, ethics, appraisals, the provisions of this chapter and such other matters the commission certifies as necessary to the practice of real estate brokerage in the State of Mississippi. The examination for a broker's license shall differ from the examination for a salesperson's license, in that it shall be of a more exacting nature and require higher standards of knowledge of real estate. The commission shall cause examinations to be conducted at such times and places as it shall determine.

(2) In event the license of any real estate broker or salesperson is revoked by the commission subsequent to the enactment of this chapter, no new license shall be issued to such person unless he complies with the provisions of this chapter.

(3) No person shall be permitted or authorized to act as a real estate broker or salesperson until he has qualified by examination, except as hereinbefore provided. Any individual who fails to pass the examination for salesperson upon two (2) occasions, shall be ineligible for a similar examination, until after the expiration of three (3) months from the time such individual last took the examination. Any individual who fails to pass the broker's examination upon two (2) occasions, shall be ineligible for a similar examination until after the expiration of six (6) months from the time such individual last took the examination, and then only upon making application as in the first instance.

(4) If the applicant is a partnership, association or corporation, * * * the examination shall be taken on behalf of * * * the partnership, association or corporation by the member or officer thereof who is designated in the application as the person to receive a license by virtue of the issuing of a license to such partnership, association or corporation.

(5) Upon satisfactorily passing such examination and upon complying with all other provisions of law and conditions of this chapter, a license shall thereupon be issued to the successful applicant who, upon receiving such license, is authorized to conduct the business of a real estate broker or real estate salesperson in this state.

(6) The commission is authorized to exempt from such examination, in whole or in part, a real estate licensee of another state who desires to obtain a license under this

chapter* * *, provided* * * that the examination administered in the other state is determined by the commission to be equivalent to such examination given in this state and provided that such other state extends this same privilege or exemption to Mississippi real estate licensees. The issuance of a license by reciprocity to a military-trained applicant or military spouse shall be subject to the provisions of Section 1 of this act.

SECTION 35. Section 73-36-31, Mississippi Code of 1972, is amended as follows:

73-36-31. A person not a resident of and having no established place of business in Mississippi, or who has recently become a resident, may use the title of registered forester in Mississippi, provided: (a) such person is legally licensed as a registered forester in his own state or county and has submitted evidence to the board that he is so licensed and that the requirements for registration are at least substantially equivalent to the requirements of this chapter; and (b) the state or county in which he is so licensed observes these same rules of reciprocity in regard to persons licensed under this chapter. Each person seeking the privileges of reciprocity granted under this chapter shall submit his application to the board and must receive a card or certificate from the board before exercising such privileges. The fee for obtaining a license through reciprocity shall be the same as charged a Mississippi licensee. The issuance of a license by reciprocity to a military-trained applicant or military spouse shall be subject to the provisions of Section 1 of this act.

SECTION 36. Section 73-38-23, Mississippi Code of 1972, is amended as follows:

73-38-23. (1) The board may waive the examination for licensure of any applicant who* * * presents proof of current licensure in another state, including the District of Columbia, or territory of the United States which maintains professional standards considered by the council to be equivalent to those set forth in this chapter. The issuance of a license by reciprocity to a military-trained applicant or military spouse shall be subject to the provisions of Section 1 of this act.

(2) The board shall waive the examination for licensure of any person certified as clinically competent by ASHA in the area for which such person is applying for licensure.

SECTION 37. Section 73-39-71, Mississippi Code of 1972, is amended as follows:

73-39-71. (1) The board may issue a license by endorsement to an applicant who furnishes satisfactory proof that he is a graduate of an accredited college of veterinary medicine or the educational equivalence. The applicant must also show that he is a person of good moral character and is licensed to practice veterinary medicine in at least one (1) state, territory or district of the United States and has practiced veterinary medicine in one or more of those states without disciplinary action by any state or federal agency for at least the three (3) years immediately before filing the application.

(2) The board may examine any person qualifying for licensing under this section.

(3) The issuance of a license by endorsement to a military-trained applicant or military spouse shall be subject to the provisions of Section 1 of this act.

SECTION 38. Section 73-53-13, Mississippi Code of 1972, is amended as follows:

73-53-13. The board shall issue the appropriate license to applicants who meet the qualifications of this section.

(a) A license as a "licensed social worker" shall be issued to an applicant who demonstrates to the satisfaction of the board that he or she meets the following qualifications:

(i) Has a baccalaureate degree in social work from a college or university accredited by the Council on Social Work Education or Southern Association of Colleges and Schools and has satisfactorily completed the Association for Social Work Boards (ASWB) examination for this license; or

(ii) Has a comparable license or registration from another state or territory of the United States of America that imposes qualifications substantially similar to those of this chapter.

(b) A license as a "licensed master's social worker" shall be issued to an applicant who demonstrates to the satisfaction of the board that he or she meets the following qualifications:

(i) Has a doctorate or master's degree from a school of social work accredited by the Council on Social Work Education; and

(ii) Has satisfactorily completed the ASWB examination for this license; or

(iii) Has a comparable license or registration from another state or territory of the United States of America that imposes qualifications substantially similar to those of this chapter.

(c) A license as a "licensed certified social worker" shall be issued to an applicant who demonstrates to the satisfaction of the board that he or she meets the following qualifications:

(i) Is licensed under this section as a "master's social worker"; and

(ii) Has twenty-four (24) months of professional supervision and clinical or macro social work practice experience acceptable to the board, under appropriate supervision; and

(iii) Has satisfactorily completed the ASWB examination for this license; or

(iv) Has a comparable license or registration from another state or territory of the United States of America that imposes qualifications substantially similar to those of this chapter.

(d) In addition to the above qualifications, an applicant for any of the above licenses must prove to the board's satisfaction:

(i) Age of at least twenty-one (21) years, and

(ii) Good moral character, which is a continuing requirement for licensure, and

(iii) United States of America citizenship or status as a legal resident alien, and

(iv) Absence of conviction of a felony related to the practice of social work for the last ten (10) years. Conviction, as used in this subparagraph, includes a deferred conviction, deferred prosecution, deferred sentence, finding or verdict of guilt, an admission of guilty, or a plea of nolo contendere, and

(v) That the applicant has not been declared mentally incompetent by any court, and if any such decree has ever been rendered, that the decree has since been changed, and

(vi) Freedom from dependency on alcohol or drugs, and

(vii) Complete criminal history records check, including a fingerprint and an acceptable sex offender check, by appropriate governmental authorities as prescribed by the board.

(e) Only individuals licensed as "certified social workers" shall be permitted to call themselves "clinical social workers."

The issuance of a license by reciprocity to a military-trained applicant or military spouse shall be subject to the provisions of Section 1 of this act.

Each application or filing made under this section shall include the social security number(s) of the applicant in accordance with Section 93-11-64.

SECTION 39. Section 73-54-23, Mississippi Code of 1972, is amended as follows:

73-54-23. The board shall issue a license by examination of credentials to any applicant licensed or certified as a marriage and family therapist in another state that has such requirements for the license or certificate that the board is of the opinion that the applicant is competent to engage in the practice of marriage and family therapy in this state, provided that the applicant submits an application on forms prescribed by the board, has passed the national Examination in Marital and Family Therapy, and pays the original licensure fee prescribed by Section 73-54-25. The issuance of a license by reciprocity to a military-trained applicant or military spouse shall be subject to the provisions of Section 1 of this act.

SECTION 40. Section 73-60-25, Mississippi Code of 1972, is amended as follows:

73-60-25. A home inspector license may be issued to a home inspector from another state who satisfies one (1) of the following requirements: (a) holds a valid certificate of certification, registration or home inspector license in good standing issued by another state, which has requirements for licensure substantially identical to those of this state, or (b) has passed the examination offered by the American Society of Home Inspectors or the National Association of Home Inspectors. The issuance of a license by reciprocity

to a military-trained applicant or military spouse shall be subject to the provisions of Section 1 of this act.

SECTION 41. Section 73-63-39, Mississippi Code of 1972, is amended as follows:

73-63-39. (1) The board may sign agreements with boards of registration, licensure or certification in other states, and with other appropriate organizations and agencies, for the purposes of:

(a) Developing uniform standards for registration of professional geologists or enrollment of geologists-in-training;

(b) Accrediting educational programs;

(c) Establishing reciprocity, comity, temporary registration, or mutual recognition of registration or enrollment;

(d) Developing regional or national examinations;

(e) Evaluating applicants; or

(f) Other purposes consistent with this chapter.

(2) Any person holding a valid certificate of registration, licensure or certification for the practice of geology or a recognized specialty of geology, issued under the laws of any state or territory or possession of the United States, or any foreign country, shall be eligible for registration, without examination. The board may issue a certificate of registration to any person who has made application, provided proof of registration, licensure or certification under requirements which the board determines to be substantially similar to those established under this chapter and paid all applicable fees. The issuance of a certificate of registration by reciprocity to a military-trained applicant or military spouse shall be subject to the provisions of Section 1 of this act.

SECTION 42. Section 73-65-7, Mississippi Code of 1972, is amended as follows:

73-65-7. (1) The board shall issue a license as a licensed professional art therapist to any person who files a completed application, accompanied by the required fees, and who submits satisfactory evidence that the applicant is at least twenty-one (21) years of age, is a registered art therapist as defined by the Art Therapy Credentials Board, Inc., demonstrates professional competency by satisfactorily passing the required

examination, and is a board certified art therapist as defined by the Art Therapy Credentials Board, Inc.

(2) The board may approve on a case-by-case basis applicants who have a master's degree or a doctoral degree from nonaccredited institutions.

(3) If an applicant has met all of the requirements for licensure except satisfactorily passing the required examination, the applicant shall be scheduled to take the next examination following the approval of the examination.

(4) The board may issue a license to an applicant without examination if the person possesses a valid regulatory document issued by the appropriate examining board under the laws of any other state or territory of the United States, the District of Columbia, or any foreign nation that in the judgment of the board has requirements substantially equivalent to or exceeding the requirements in this section. The issuance of a license by reciprocity to a military-trained applicant or military spouse shall be subject to the provisions of Section 1 of this act.

(5) The board may issue provisional licensure as a professional art therapist to any person who has completed the educational requirements established by the Art Therapy Credentials Board, Inc., and has met all requirements for licensure as a professional art therapist, except the experience and/or examination requirements, and is under the supervision of a supervisor acceptable to the board.

(6) The board may set criteria for continuing education and supervisory experience.

SECTION 43. Section 73-67-25, Mississippi Code of 1972, is amended as follows:

73-67-25. (1) An applicant may be licensed by demonstrating proof that the applicant holds a valid, current license in another state with similar educational requirements to those required by this chapter, and that all other licensure requirements under this chapter are met. This is subject to investigation by the board and excludes grandfathering by other states.

(2) If an individual who is licensed in another state that has licensing standards substantially equivalent to the standards under this chapter applies for licensure, the board

may issue a provisional permit authorizing the applicant to practice massage therapy pending completion of documentation that the applicant meets the requirements for licensure under this chapter, including, but not limited to, the Mississippi law examination. The provisional permit may reflect statutory limitations on the scope of practice.

(3) A current massage therapy license issued by the board shall at all times be prominently displayed in any place where massage therapy is being practiced.

(4) A license issued under this chapter is not transferable or assignable.

The issuance of a license or provisional permit by reciprocity to a military-trained applicant or military spouse shall be subject to the provisions of Section 1 of this act.

SECTION 44. Section 73-69-11, Mississippi Code of 1972, is amended as follows:

73-69-11. (1) Any person employed by an alarm contracting company shall hold an individual license issued by the State Fire Marshal. Such a license shall authorize its holder to engage in alarm contracting or closed_-circuit television alarm system contracting, only to the extent of the terms as further provided in this chapter.

(2) Any person desiring to engage in alarm contracting or closed_-circuit television alarm system contracting shall hold a Class B license issued by the State Fire Marshal. Such application shall be accompanied by:

(a) Two (2) suitable photographs of the applicant acceptable to the State Fire Marshal. The State Fire Marshal shall keep one (1) photograph on file and shall make the other photograph a part of any license subsequently issued to the applicant.

(b) Except as provided in subsection (9), documentation that the applicant meets educational requirements applicable to the type of license for which he is applying, as follows:

(i) For a Class B license: a minimum of National Burglar and Fire Alarm Association, Level 2 A&B Burglar Alarm training course or equivalent training approved by the State Fire Marshal, and documentation proving residency within a radius of one hundred fifty (150) miles of the office to which he is assigned.

(ii) For a Class C license: a minimum of National Burglar and Fire Alarm Association, Level 1 Burglar Alarm training course, or equivalent training approved by the State Fire Marshal.

(iii) For a Class D license: a minimum of National Burglar and Fire Alarm Association, Sales Understanding Alarms training course, or equivalent training approved by the State Fire Marshal, or a minimum of two (2) years of design and sales experience in the alarm industry attested to in a notarized affidavit and payroll records provided by the applicant.

(iv) For a Class T license: application for a Class B, Class C or Class D license, accompanied by a letter of intent to complete the training requirements of such license types within twelve (12) months.

(c) (i) A statement by the applicant that he has not been convicted of a felony, received a first-time offender pardon for a felony, or entered a plea of guilty or nolo contendere to a felony charge. A felony that has been dismissed pursuant to the Mississippi Criminal Code or equivalent judicial dismissal shall not apply to this paragraph.

(ii) A conviction or a plea of guilty or nolo contendere to a felony charge or receipt of a first-time offender pardon shall not constitute an automatic disqualification as otherwise required pursuant to subparagraph (i) if ten (10) or more years have elapsed between the date of application and the successful completion or service of any sentence, deferred adjudication or period of probation or parole.

(iii) Subparagraph (ii) shall not apply to any person convicted of a felony crime of violence or a sex offense as defined within the Mississippi Criminal Code.

(d) A statement authorizing the State Fire Marshal to order fingerprint analysis or any other analysis or documents deemed necessary by the State Fire Marshal for the purpose of verifying the applicant's criminal history. The State Fire Marshal shall have the authority to conduct criminal history verification on a local, state or national level.

(e) The application fee authorized by this chapter.

(3) The State Fire Marshal shall have the authority to determine if information submitted by an applicant is in a

form acceptable to him. The State Fire Marshal shall verify or have another entity verify information submitted by each applicant.

(4) If the State Fire Marshal finds that an applicant has met the applicable requirements of the alarm licensing law, he shall issue the appropriate type of license to the applicant upon payment of the license fee authorized by this chapter.

(5) Each individual license holder shall maintain his license on his person while engaging in any type of alarm contracting or closed -circuit television alarm system contracting as applicable. Each such license holder shall present his license for inspection upon demand by an employee of the Office of the State Fire Marshal or a law enforcement officer.

(6) Each individual license holder shall notify the State Fire Marshal, on a form specified and provided by the State Fire Marshal, within ten (10) days of the following:

(a) Any change in business or home address.

(b) Any separation from an employer or change in employer.

(c) Any conviction for a felony or entry of a plea of guilty or nolo contendere to a felony charge or receipt of a first-time offender pardon.

(7) No individual licensed under this chapter shall contract for his services as an independent contractor or agent without applying for and being issued a Class B license under this chapter. No alarm contracting company or closed -circuit television alarm system contracting company shall contract for the independent services of a holder of an individual license under this section.

(8) The State Fire Marshal may enter into reciprocal agreements with other states for mutual recognition of individual license holders, if the State Fire Marshal has established the criteria for acceptance of reciprocal agreements by rule or regulation. The issuance of a license by reciprocity to a military-trained applicant or military spouse shall be subject to the provisions of Section 1 of this act.

(9) Any person engaged in alarm contracting or closed -circuit television alarm system contracting, on or before July 1, 2006, shall automatically be issued a license without

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having to show documentation that the applicant meets the educational requirements applicable to the type of license for which he is applying.

SECTION 45. Section 73-71-21, Mississippi Code of 1972, is amended as follows:

73-71-21. The board may, at its discretion, issue a license without examination to an acupuncture practitioner who has been licensed, certified or otherwise formally legally recognized as an acupuncturist or acupuncture practitioner in any state or territory if all three (3) of the following conditions are met to its satisfaction:

(a) The applicant meets the requirements of practice in the state or territory in which the applicant is licensed, certified, or registered as an acupuncturist or acupuncture practitioner;

(b) The requirements for practice in the state or territory in which the applicant is licensed, certified or registered as an acupuncturist or acupuncture practitioner are at least as stringent as those of this state; and

(c) The state or territory in which the applicant is licensed, certified or legally recognized as an acupuncturist or acupuncture practitioner permits an acupuncture practitioner licensed in this state to practice acupuncture or acupuncture in that jurisdiction by credentials examination.

The issuance of a license by reciprocity to a military-trained applicant or military spouse shall be subject to the provisions of Section 1 of this act.

SECTION 46. Section 73-73-11, Mississippi Code of 1972, is amended as follows:

73-73-11. The board and IDAC may accept applications for Mississippi certification from an interior designer in another jurisdiction pursuant to Section 73-73-7 or 73-73-9. The issuance of a certification by reciprocity to a military-trained applicant or military spouse shall be subject to the provisions of Section 1 of this act.

SECTION 47. Section 73-73-17, Mississippi Code of 1972, is amended as follows:

73-73-17. The board shall not issue a temporary certificate, except as authorized under Section 1 of this act.

SECTION 48. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

Senate Bill 2436

Description: Emerging Crops Program; remove reversionary language regarding a certain loan program.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2013

Chapter Number: 386

History of Actions:

- | | | | |
|----|-------|-----|---|
| 1 | 01/21 | (S) | Referred To Finance |
| 2 | 01/31 | (S) | Title Suff Do Pass |
| 3 | 02/07 | (S) | Passed {Vote} |
| 4 | 02/08 | (S) | Transmitted To House |
| 5 | 02/20 | (H) | Referred To Agriculture; Ways and Means |
| 6 | 02/28 | (H) | DR - TSDP: AG To WM |
| 7 | 03/05 | (H) | DR - TSDP: WM To AG |
| 8 | 03/05 | (H) | Title Suff Do Pass |
| 9 | 03/12 | (H) | Passed {Vote} |
| 10 | 03/13 | (H) | Transmitted To Senate |
| 11 | 03/14 | (S) | Enrolled Bill Signed |
| 12 | 03/14 | (H) | Enrolled Bill Signed |
| 13 | 03/20 | | Approved by Governor |

Code Section: A 069-0002-0013

----- Additional Information -----

Senate Committee: Finance

House Committee: Agriculture, Ways and Means

Principal Author: Hudson

Title: AN ACT TO AMEND SECTION 69-2-13, MISSISSIPPI CODE OF 1972, TO REMOVE THE REVERSIONARY LANGUAGE ON A PROVISION IN THE EMERGING CROPS FUND THAT ESTABLISHES A LOAN PROGRAM FOR

CERTAIN AGRIBUSINESSES OR GREENHOUSE PRODUCTION HORTICULTURAL ENTERPRISES; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Finance

By: Senator(s) Hudson

Senate Bill 2436

(As Sent to Governor)

AN ACT TO AMEND SECTION 69-2-13, MISSISSIPPI CODE OF 1972, TO REMOVE THE REVERSIONARY LANGUAGE ON A PROVISION IN THE EMERGING CROPS FUND THAT ESTABLISHES A LOAN PROGRAM FOR CERTAIN AGRIBUSINESSES OR GREENHOUSE PRODUCTION HORTICULTURAL ENTERPRISES; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 69-2-13, Mississippi Code of 1972, is amended as follows:

* * *

69-2-13. (1) There is hereby established in the State Treasury a fund to be known as the "Emerging Crops Fund," which shall be used to pay the interest on loans made to farmers for nonland capital costs of establishing production of emerging crops on land in Mississippi, and to make loans and grants which are authorized under this section to be made from the fund. The fund shall be administered by the Mississippi Development Authority. A board comprised of the directors of the authority, the Mississippi Cooperative Extension Service, the Mississippi Small Farm Development Center and the Mississippi Agricultural and Forestry Experiment Station, or their designees, shall develop definitions, guidelines and procedures for the implementation of this chapter. Funds for the Emerging Crops Fund shall be provided from the issuance of bonds or notes under Sections 69-2-19 through 69-2-37 and from repayment of interest loans made from the fund.

(2) (a) The Mississippi Development Authority shall develop a program which gives fair consideration to making loans for the processing and manufacturing of goods and services by agribusiness, greenhouse production horticulture, and small business concerns. It is the policy of the State of Mississippi that the Mississippi Development Authority shall give due recognition to and shall aid, counsel, assist and protect, insofar as is possible, the interests of agribusiness,

greenhouse production horticulture, and small business concerns. To ensure that the purposes of this subsection are carried out, the Mississippi Development Authority shall loan not more than One Million Dollars (\$1,000,000.00) to finance any single agribusiness, greenhouse production horticulture, or small business concern. Loans made pursuant to this subsection shall be made in accordance with the criteria established in Section 57-71-11.

(b) The Mississippi Development Authority may, out of the total amount of bonds authorized to be issued under this chapter, make available funds to any planning and development district in accordance with the criteria established in Section 57-71-11. Planning and development districts which receive monies pursuant to this provision shall use such monies to make loans to private companies for purposes consistent with this subsection.

(c) The Mississippi Development Authority is hereby authorized to engage legal services, financial advisors, appraisers and consultants if needed to review and close loans made hereunder and to establish and assess reasonable fees including, but not limited to, liquidation expenses.

(3) (a) The Mississippi Development Authority shall, in addition to the other programs described in this section, provide for the following programs of loans to be made to agribusiness or greenhouse production horticulture enterprises for the purpose of encouraging thereby the extension of conventional financing and the issuance of letters of credit to such agribusiness or greenhouse production horticulture enterprises by private institutions. Monies to make such loans by the Mississippi Development Authority shall be drawn from the Emerging Crops Fund.

(b) The Mississippi Development Authority may make loans to agribusiness or greenhouse production horticulture enterprises. The amount of any loan to any single enterprise under this paragraph (b) shall not exceed twenty percent (20%) of the total cost of the project for which financing is sought or Two Hundred Thousand Dollars (\$200,000.00), whichever is less. No interest shall be charged on such loans, and only the amount actually loaned shall be required to be repaid. Repayments shall be deposited into the Emerging Crops Fund.

(c) The Mississippi Development Authority also may make loans under this subsection (3) to existing agribusiness or

greenhouse production horticulture enterprises for the purpose of assisting such enterprises to make upgrades, renovations, repairs and other improvements to their equipment, facilities and operations, which shall not exceed Two Hundred Thousand Dollars (\$200,000.00) or thirty percent (30%) of the total cost of the project for which financing is sought, whichever is less. No interest shall be charged on loans made under this paragraph, and only the amount actually loaned shall be required to be repaid. Repayments shall be deposited into the Emerging Crops Fund.

(d) The maximum aggregate amount of loans that may be made under this subsection (3) to any one (1) agribusiness shall be not more than Four Hundred Thousand Dollars (\$400,000.00).

(4) (a) Through June 30, 2010, the Mississippi Development Authority may loan or grant to qualified planning and development districts, and to small business investment corporations, bank-based community development corporations, the Recruitment and Training Program, Inc., the City of Jackson Business Development Loan Fund, the Lorman Southwest Mississippi Development Corporation, the West Jackson Community Development Corporation, the East Mississippi Development Corporation, and other entities meeting the criteria established by the Mississippi Development Authority (all referred to hereinafter as "qualified entities"), funds for the purpose of establishing loan revolving funds to assist in providing financing for minority economic development. The monies loaned or granted by the Mississippi Development Authority shall be drawn from the Emerging Crops Fund and shall not exceed Twenty-nine Million Dollars (\$29,000,000.00) in the aggregate. Planning and development districts or qualified entities which receive monies pursuant to this provision shall use such monies to make loans to minority business enterprises consistent with criteria established by the Mississippi Development Authority. Such criteria shall include, at a minimum, the following:

(i) The business enterprise must be a private, for-profit enterprise.

(ii) If the business enterprise is a proprietorship, the borrower must be a resident citizen of the State of Mississippi; if the business enterprise is a corporation or partnership, at least fifty percent (50%) of the owners must be resident citizens of the State of Mississippi.

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(iii) The borrower must have at least five percent (5%) equity interest in the business enterprise.

(iv) The borrower must demonstrate ability to repay the loan.

(v) The borrower must not be in default of any previous loan from the state or federal government.

(vi) Loan proceeds may be used for financing all project costs associated with development or expansion of a new small business, including fixed assets, working capital, start-up costs, rental payments, interest expense during construction and professional fees related to the project.

(vii) Loan proceeds shall not be used to pay off existing debt for loan consolidation purposes; to finance the acquisition, construction, improvement or operation of real property which is to be held primarily for sale or investment; to provide for, or free funds, for speculation in any kind of property; or as a loan to owners, partners or stockholders of the applicant which do not change ownership interest by the applicant. However, this does not apply to ordinary compensation for services rendered in the course of business.

(viii) The maximum amount that may be loaned to any one (1) borrower shall be Two Hundred Fifty Thousand Dollars (\$250,000.00).

(ix) The Mississippi Development Authority shall review each loan before it is made, and no loan shall be made to any borrower until the loan has been reviewed and approved by the Mississippi Development Authority.

(b) For the purpose of this subsection, the term "minority business enterprise" means a socially and economically disadvantaged small business concern, organized for profit, performing a commercially useful function which is owned and controlled by one or more minorities or minority business enterprises certified by the Mississippi Development Authority, at least fifty percent (50%) of whom are resident citizens of the State of Mississippi. Except as otherwise provided, for purposes of this subsection, the term "socially and economically disadvantaged small business concern" shall have the meaning ascribed to such term under the Small Business Act (15 USCS, Section 637(a)), or women, and the term "owned and controlled" means a business in which one or more minorities

or minority business enterprises certified by the Mississippi Development Authority own sixty percent (60%) or, in the case of a corporation, sixty percent (60%) of the voting stock, and control sixty percent (60%) of the management and daily business operations of the business. However, an individual whose personal net worth exceeds Five Hundred Thousand Dollars (\$500,000.00) shall not be considered to be an economically disadvantaged individual.

From and after July 1, 2010, monies not loaned or granted by the Mississippi Development Authority to planning and development districts or qualified entities under this subsection, and monies not loaned by planning and development districts or qualified entities, shall be deposited to the credit of the sinking fund created and maintained in the State Treasury for the retirement of bonds issued under Section 69-2-19.

(c) Notwithstanding any other provision of this subsection to the contrary, if federal funds are not available for commitments made by a planning and development district to provide assistance under any federal loan program administered by the planning and development district in coordination with the Appalachian Regional Commission or Economic Development Administration, or both, a planning and development district may use funds in its loan revolving fund, which have not been committed otherwise to provide assistance, for the purpose of providing temporary funding for such commitments. If a planning and development district uses uncommitted funds in its loan revolving fund to provide such temporary funding, the district shall use funds repaid to the district under the temporarily funded federal loan program to replenish the funds used to provide the temporary funding. Funds used by a planning and development district to provide temporary funding under this paragraph (c) must be repaid to the district's loan revolving fund no later than twelve (12) months after the date the district provides the temporary funding. A planning and development district may not use uncommitted funds in its loan revolving fund to provide temporary funding under this paragraph (c) on more than two (2) occasions during a calendar year. A planning and development district may provide temporary funding for multiple commitments on each such occasion. The maximum aggregate amount of uncommitted funds in a loan revolving fund that may be used for such purposes during a calendar year shall not exceed seventy

percent (70%) of the uncommitted funds in the loan revolving fund on the date the district first provides temporary funding during the calendar year.

(d) If the Mississippi Development Authority determines that a planning and development district or qualified entity has provided loans to minority businesses in a manner inconsistent with the provisions of this subsection, then the amount of such loans so provided shall be withheld by the Mississippi Development Authority from any additional grant funds to which the planning and development district or qualified entity becomes entitled under this subsection. If the Mississippi Development Authority determines, after notifying such planning and development district or qualified entity twice in writing and providing such planning and development district or qualified entity a reasonable opportunity to comply, that a planning and development district or qualified entity has consistently failed to comply with this subsection, the Mississippi Development Authority may declare such planning and development district or qualified entity in default under this subsection and, upon receipt of notice thereof from the Mississippi Development Authority, such planning and development district or qualified entity shall immediately cease providing loans under this subsection, shall refund to the Mississippi Development Authority for distribution to other planning and development districts or qualified entities all funds held in its revolving loan fund and, if required by the Mississippi Development Authority, shall convey to the Mississippi Development Authority all administrative and management control of loans provided by it under this subsection.

(e) If the Mississippi Development Authority determines, after notifying a planning and development district or qualified entity twice in writing and providing copies of such notification to each member of the Legislature in whose district or in a part of whose district such planning and development district or qualified entity is located and providing such planning and development district or qualified entity a reasonable opportunity to take corrective action, that a planning and development district or qualified entity administering a revolving loan fund under the provisions of this subsection is not actively engaged in lending as defined by the rules and regulations of the Mississippi Development Authority, the Mississippi Development Authority may declare

such planning and development district or qualified entity in default under this subsection and, upon receipt of notice thereof from the Mississippi Development Authority, such planning and development district or qualified entity shall immediately cease providing loans under this subsection, shall refund to the Mississippi Development Authority for distribution to other planning and development districts or qualified entities all funds held in its revolving loan fund and, if required by the Mississippi Development Authority, shall convey to the Mississippi Development Authority all administrative and management control of loans provided by it under this subsection.

(5) The Mississippi Development Authority shall develop a program which will assist minority business enterprises by guaranteeing bid, performance and payment bonds which such minority businesses are required to obtain in order to contract with federal agencies, state agencies or political subdivisions of the state. The Mississippi Development Authority may secure letters of credit, as determined necessary by the authority, to guarantee bid, performance and payment bonds pursuant to this subsection. Monies for such program shall be drawn from the monies allocated under subsection (4) of this section to assist the financing of minority economic development and shall not exceed Three Million Dollars (\$3,000,000.00) in the aggregate. The Mississippi Development Authority may promulgate rules and regulations for the operation of the program established pursuant to this subsection. For the purpose of this subsection (5), the term "minority business enterprise" has the meaning assigned such term in subsection (4) of this section.

(6) The Mississippi Development Authority may loan or grant to public entities and to nonprofit corporations funds to defray the expense of financing (or to match any funds available from other public or private sources for the expense of financing) projects in this state which are devoted to the study, teaching and/or promotion of regional crafts and which are deemed by the authority to be significant tourist attractions. The monies loaned or granted shall be drawn from the Emerging Crops Fund and shall not exceed Two Hundred Fifty Thousand Dollars (\$250,000.00) in the aggregate.

(7) Through June 30, 2006, the Mississippi Development Authority shall make available to the Mississippi Department

of Agriculture and Commerce funds for the purpose of establishing loan revolving funds and other methods of financing for agribusiness programs administered under the Mississippi Agribusiness Council Act of 1993. The monies made available by the Mississippi Development Authority shall be drawn from the Emerging Crops Fund and shall not exceed One Million Two Hundred Thousand Dollars (\$1,200,000.00) in the aggregate. The Mississippi Department of Agriculture and Commerce shall establish control and auditing procedures for use of these funds. These funds will be used primarily for quick payment to farmers for vegetable and fruit crops processed and sold through vegetable processing plants associated with the Department of Agriculture and Commerce and the Mississippi State Extension Service.

(8) From and after July 1, 1996, the Mississippi Development Authority shall make available to the Mississippi Small Farm Development Center One Million Dollars (\$1,000,000.00) to be used by the center to assist small entrepreneurs as provided in Section 37-101-25, Mississippi Code of 1972. The monies made available by the Mississippi Development Authority shall be drawn from the Emerging Crops Fund.

(9) [Repealed]

(10) The Mississippi Development Authority shall make available to the Small Farm Development Center at Alcorn State University funds in an aggregate amount not to exceed Three Hundred Thousand Dollars (\$300,000.00), to be drawn from the cash balance of the Emerging Crops Fund. The Small Farm Development Center at Alcorn State University shall use such funds to make loans to producers of sweet potatoes and cooperatives anywhere in the State of Mississippi owned by sweet potato producers to assist in the planting of sweet potatoes and the purchase of sweet potato production and harvesting equipment. A report of the loans made under this subsection shall be furnished by January 15 of each year to the Chairman of the Senate Agriculture Committee and the Chairman of the House Agriculture Committee.

(11) The Mississippi Development Authority shall make available to the Mississippi Department of Agriculture and Commerce "Make Mine Mississippi" program an amount not to exceed One Hundred Fifty Thousand Dollars (\$150,000.00) to be drawn from the cash balance of the Emerging Crops Fund.

(12) The Mississippi Development Authority shall make available to the Mississippi Department of Agriculture and Commerce an amount not to exceed One Hundred Fifty Thousand Dollars (\$150,000.00) to be drawn from the cash balance of the Emerging Crops Fund to be used for the rehabilitation and maintenance of the Mississippi Farmers Central Market in Jackson, Mississippi.

(13) The Mississippi Development Authority shall make available to the Mississippi Department of Agriculture and Commerce an amount not to exceed Twenty-five Thousand Dollars (\$25,000.00) to be drawn from the cash balance of the Emerging Crops Fund to be used for advertising purposes related to the Mississippi Farmers Central Market in Jackson, Mississippi.

(14) (a) The Mississippi Development Authority shall, in addition to the other programs described in this section, provide for a program of loan guaranties to be made on behalf of any nonprofit entity qualified under Section 501(c)(3) of the Internal Revenue Code and certified by the United States Department of the Treasury as a community development financial institution for the purpose of encouraging the extension of financing to such an entity which financing the entity will use to make funds available to other entities for the purpose of making loans available in low-income communities in Mississippi. Monies to make such loan guaranties by the Mississippi Development Authority shall be drawn from the Emerging Crops Fund and shall not exceed Two Million Dollars (\$2,000,000.00) in the aggregate. The amount of a loan guaranty on behalf of such an entity under this subsection (14) shall not exceed Two Million Dollars (\$2,000,000.00). Assistance received by an entity under this subsection (14) shall not disqualify the entity from obtaining any other assistance under this chapter.

(b) An entity desiring assistance under this subsection (14) must submit an application to the Mississippi Development Authority. The application must include any information required by the Mississippi Development Authority.

(c) The Mississippi Development Authority shall have all powers necessary to implement and administer the program established under this subsection (14), and the Mississippi Development Authority shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures

Law, necessary for the implementation of this subsection (14).

(15) (a) The Mississippi Development Authority shall, in addition to the other programs described in this section, provide for a program of grants to agribusiness enterprises that process, dry, store or ship peanuts and if the enterprise has invested prior to April 17, 2009, a minimum of Six Million Dollars (\$6,000,000.00) in land, facilities and equipment in this state that are utilized to process, dry, store or ship peanuts. Monies to make such grants by the Mississippi Development Authority shall be drawn from the Emerging Crops Fund and shall not exceed One Million Dollars (\$1,000,000.00) in the aggregate. The amount of a grant under this subsection (15) shall not exceed One Million Dollars (\$1,000,000.00).

(b) An entity desiring assistance under this subsection (15) must submit an application to the Mississippi Development Authority. The application must include a description of the project for which assistance is requested, the cost of the project for which assistance is requested, the amount of assistance requested and any other information required by the Mississippi Development Authority.

(c) As a condition of the receipt of a grant under this subsection (15), an entity must agree to remain in business in this state for not less than five (5) years and must meet other conditions established by the Mississippi Development Authority to ensure that the assistance results in an economic benefit to the state. The Mississippi Development Authority shall require that binding commitments be entered into requiring that:

(i) The minimum requirements provided for in this subsection (15) and the conditions established by the Mississippi Development Authority are met; and

(ii) If such commitments and conditions are not met, all or a portion of the funds provided pursuant to this subsection (15) shall be repaid.

(d) The Mississippi Development Authority shall have all powers necessary to implement and administer the program established under this subsection (15), and the Mississippi Development Authority shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures

Law, necessary for the implementation of this subsection (15).

(16) (a) The Mississippi Development Authority, in addition to the other programs described in this section, shall provide for a program of loan guaranties to be made on behalf of certain agribusinesses engaged in sweet potato growing and farming for the purpose of encouraging thereby the extension of conventional financing and the issuance of letters of credit to such agribusinesses by lenders. The amount of a loan guaranty made on behalf of such an agribusiness shall be ninety percent (90%) of the amount of assistance made available by a lender for the purposes authorized under this subsection (16). Monies to make such loan guaranties by the Mississippi Development Authority shall be drawn from the Emerging Crops Fund and shall not exceed Seventeen Million Dollars (\$17,000,000.00) in the aggregate.

(b) In order to be eligible for assistance under this subsection (16) an agribusiness must:

(i) Have been actively engaged in sweet potato growing and farming in this state before January 1, 2010;

(ii) Have incurred a disaster-related loss for sweet potato growing and farming purposes for calendar year 2009, as determined by a lender;

(iii) Agree to obtain and maintain federal Noninsured Agricultural Program (NAP) insurance coverage for the outstanding balance of any assistance received under this subsection (16); and

(iv) Satisfy underwriting criteria established by a lender related to loans under this subsection (16).

(c) (i) An entity desiring assistance under this subsection must submit an application for assistance to a lender not later than August 1, 2010. The application must include:

1. Information verifying the length of time the applicant has been actively engaged in sweet potato growing and farming in this state;

2. Information regarding the number of acres used by the applicant for sweet potato growing and farming purposes during the 2009 calendar year, as certified to by the Farm Services Authority (FSA) or the Mississippi Department of

Agriculture and Commerce (MDAC), and the number of acres the applicant intends to use for such purposes during the 2010 calendar year;

3. The average cost per acre incurred by the applicant for sweet potato growing and farming purposes during the 2009 calendar year, as certified to by the FSA or MDAC, and an estimate of the average cost per acre to be incurred by the applicant for such purposes during the calendar year for which application is made;

4. The amount of assistance requested;

5. A statement from the applicant agreeing that he will obtain and maintain NAP insurance coverage for the outstanding balance of any assistance received under this subsection (16); and

6. Any other information required by the lender and/or the MDA.

(ii) The lender shall review the application for assistance and determine whether the applicant qualifies for assistance under this subsection (16). If the lender determines that the applicant qualifies for assistance, the lender shall loan funds to the applicant subject to the provisions of this subsection (16).

(d) Loans made under this subsection (16) shall be subject to the following conditions:

(i) The maximum amount of a loan to a borrower shall not exceed One Thousand Seven Hundred Dollars (\$1,700.00) per acre and shall exclude any machinery and equipment costs.

(ii) The proceeds of a loan may be used only for paying a borrower's sweet potato planting, production and harvesting costs, excluding machinery and equipment costs.

(iii) The proceeds of a loan may not be used to repay, satisfy or finance existing debt.

(iv) The time allowed for repayment of a loan shall not be more than five (5) years, and there shall be no penalty, fee or other charge imposed for the prepayment of a loan.

(e) The receipt of assistance by a person or other entity under any other program described in this section shall not disqualify the person or entity from obtaining a loan under the program established in this subsection (16) if the

person or entity is otherwise eligible under this program. In addition, the receipt of a loan by a person or other entity under the program established under this subsection (16) shall not disqualify the person or entity from obtaining assistance under any other program described in this section.

(f) The Mississippi Development Authority shall have all powers necessary to implement and administer the program established under this subsection (16), and the Mississippi Development Authority shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, necessary for the implementation of this subsection (16).

* * *

SECTION 2. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

Senate Bill 2446

Description: Public property; authorize transfers to Veterans Affairs Board and National Park Service.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: Passage

Chapter Number: 320

History of Actions:

1	01/21	(S)	Referred To Public Property; Veterans and Military Affairs
2	01/28	(S)	DR - TSDP: PP To VM
3	01/31	(S)	Title Suff Do Pass
4	02/07	(S)	Amended
5	02/07	(S)	Passed As Amended {Vote}
6	02/11	(S)	Transmitted To House
7	02/20	(H)	Referred To Public Property; Military Affairs
8	02/26	(H)	DR - TSDP: PP To MA
9	02/27	(H)	DR - TSDP: MA To PP
10	02/27	(H)	Title Suff Do Pass
11	02/28	(H)	Passed {Vote}
12	03/01	(H)	Transmitted To Senate
13	03/04	(S)	Enrolled Bill Signed
14	03/04	(H)	Enrolled Bill Signed
15	03/07		Approved by Governor

Amendments:

[S] Amendment No 1 *Adopted* Voice Vote

----- Additional Information -----

Senate Committee: Public Property, Veterans and Military Affairs

House Committee: Public Property, Military Affairs

Principal Author: Montgomery

Additional Authors: Moran, Chassaniol, Hopson

Title: AN ACT TO AUTHORIZE THE DEPARTMENT OF WILDLIFE, FISHERIES, AND PARKS TO TRANSFER CERTAIN STATE-OWNED REAL PROPERTY LOCATED IN LEFLORE COUNTY, MISSISSIPPI, TO THE STATE VETERANS AFFAIRS BOARD; TO AUTHORIZE THE DEPARTMENT OF FINANCE AND ADMINISTRATION TO DONATE CERTAIN REAL PROPERTY LOCATED IN WARREN COUNTY, MISSISSIPPI, TO THE NATIONAL PARK SERVICE; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI SB 2446

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Public Property; Veterans and Military Affairs

By: Senator(s) Montgomery, Moran, Chassaniol, Hopson

Senate Bill 2446

(As Sent to Governor)

AN ACT TO AUTHORIZE THE DEPARTMENT OF WILDLIFE, FISHERIES, AND PARKS TO TRANSFER CERTAIN STATE-OWNED REAL PROPERTY LOCATED IN LEFLORE COUNTY, MISSISSIPPI, TO THE STATE VETERANS AFFAIRS BOARD; TO AUTHORIZE THE DEPARTMENT OF FINANCE AND ADMINISTRATION TO DONATE CERTAIN REAL PROPERTY LOCATED IN WARREN COUNTY, MISSISSIPPI, TO THE NATIONAL PARK SERVICE; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. (1) The Department of Wildlife, Fisheries and Parks, upon consultation with the Department of Finance and Administration, may transfer certain real property in Leflore County, Mississippi, to the State Veterans Affairs Board.

(2) The real property transferred in subsection (1) shall be used by the State Veterans Affairs Board to establish a state veterans cemetery. The real property shall meet the United States Department of Veterans Affairs' conditions for designating the property as a state or national cemetery site.

SECTION 2. After consultation with the Secretary of State, the Department of Finance and Administration is authorized to donate certain real property to the National Park Service. The real property is located in Section 12, Township 16, Range 3 of Warren County, Mississippi, and is more particularly described as follows:

Lot 36 pt., Plat Book 61, p. 283, Vogelsson

Parcel Number: 0877 12 2971 001800

Being approximately 75' by 100', more or less.

SECTION 3. This act shall take effect and be in force from and after its passage.

Mississippi Legislature

2013 Regular Session

Senate Bill 2447

Description: Counties and municipalities; may allow credit card payment of judgments, fines, costs and penalties for criminal/traffic offenses.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2013

Chapter Number: 344

History of Actions:

- | | | | |
|----|-------|-----|--|
| 1 | 01/21 | (S) | Referred To County Affairs; Municipalities |
| 2 | 01/30 | (S) | DR - TSDP: CA To MU |
| 3 | 01/30 | (S) | Title Suff Do Pass |
| 4 | 02/12 | (S) | Amended |
| 5 | 02/12 | (S) | Passed As Amended {Vote} |
| 6 | 02/14 | (S) | Transmitted To House |
| 7 | 02/21 | (H) | Referred To County Affairs; Municipalities |
| 8 | 02/26 | (H) | DR - TSDP: CA To MU |
| 9 | 03/01 | (H) | DR - TSDP: MU To CA |
| 10 | 03/01 | (H) | Title Suff Do Pass |
| 11 | 03/06 | (H) | Passed {Vote} |
| 12 | 03/07 | (H) | Transmitted To Senate |
| 13 | 03/11 | (S) | Enrolled Bill Signed |
| 14 | 03/11 | (H) | Enrolled Bill Signed |
| 15 | 03/18 | | Approved by Governor |

Amendments:

[S] Amendment No 1 *Adopted* Voice Vote

[S] Amendment No 2 *Adopted* Voice Vote

Code Section: A 017-0025-0001

----- Additional Information -----

Senate Committee: County Affairs, Municipalities

House Committee: County Affairs, Municipalities

Principal Author: Montgomery

Title: AN ACT TO AMEND SECTION 17-25-1, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT COUNTIES AND MUNICIPALITIES MAY ALLOW THE PAYMENT OF JUDGMENTS, FINES, COSTS AND PENALTIES IMPOSED UPON CONVICTION FOR CRIMINAL AND TRAFFIC OFFENSES BY CREDIT CARDS, CHARGE CARDS, DEBIT CARDS AND OTHER FORMS OF ELECTRONIC PAYMENT; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI SB 2447

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: County Affairs; Municipalities

By: Senator(s) Montgomery

Senate Bill 2447

(As Sent to Governor)

AN ACT TO AMEND SECTION 17-25-1, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT COUNTIES AND MUNICIPALITIES MAY ALLOW THE PAYMENT OF JUDGMENTS, FINES, COSTS AND PENALTIES IMPOSED UPON CONVICTION FOR CRIMINAL AND TRAFFIC OFFENSES BY CREDIT CARDS, CHARGE CARDS, DEBIT CARDS AND OTHER FORMS OF ELECTRONIC PAYMENT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 17-25-1, Mississippi Code of 1972, is amended as follows:

17-25-1. The board of supervisors of any county and the governing authorities of any municipality may allow the payment of various taxes, fees and other accounts receivable to the county or municipality by credit cards, charge cards, debit cards and other forms of electronic payment, in accordance with policies established by the State Auditor. Any fees or charges associated with the use of such electronic payments shall be assessed to the user of the electronic payment as an additional charge for processing the electronic payment, so that the user will pay the full cost of using the electronic payment. However, a county or municipality shall not charge the user any additional amount above the processing fee on each transaction. For purposes of this section, the term "accounts receivable" includes, but is not limited to, judgments, fines, costs and penalties imposed upon conviction for criminal and traffic offenses. This section shall stand repealed on July 1, 2014.

SECTION 2. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

Senate Bill 2448

Description: Memorial highways; designate Mississippi Highway 4 in Prentiss county as the Sergeant Jonathan W. Lambert, Memorial Highway.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2013

Chapter Number: 373

History of Actions:

- | | | | |
|----|-------|-----|---|
| 1 | 01/21 | (S) | Referred To Highways and Transportation |
| 2 | 02/04 | (S) | Title Suff Do Pass |
| 3 | 02/06 | (S) | Passed {Vote} |
| 4 | 02/07 | (S) | Transmitted To House |
| 5 | 02/21 | (H) | Referred To Transportation |
| 6 | 03/05 | (H) | Title Suff Do Pass |
| 7 | 03/12 | (H) | Passed {Vote} |
| 8 | 03/13 | (H) | Transmitted To Senate |
| 9 | 03/14 | (S) | Enrolled Bill Signed |
| 10 | 03/14 | (H) | Enrolled Bill Signed |
| 11 | 03/20 | | Approved by Governor |

----- Additional Information -----

Senate Committee: Highways and Transportation

House Committee: Transportation

Principal Author: Wilemon

Title: AN ACT TO DESIGNATE A SEGMENT OF MISSISSIPPI HIGHWAY 4 WITHIN PRENTISS COUNTY, MISSISSIPPI AS THE "SERGEANT JONATHAN W. LAMBERT, U.S.M.C. MEMORIAL HIGHWAY"; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI SB 2448

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Highways and Transportation

By: Senator(s) Wilemon

Senate Bill 2448

(As Sent to Governor)

AN ACT TO DESIGNATE A SEGMENT OF MISSISSIPPI HIGHWAY 4 WITHIN PRENTISS COUNTY, MISSISSIPPI AS THE "SERGEANT JONATHAN W. LAMBERT, U.S.M.C. MEMORIAL HIGHWAY"; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. (1) That segment of Mississippi Highway 4 within Prentiss County, Mississippi, beginning at the Prentiss/Tishomingo County line and extending to the intersection of Mississippi Highway 4 and Mississippi Highway 371 is designated and shall be known as the "Sergeant Jonathan W. Lambert, U.S.M.C. Memorial Highway."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the highway.

SECTION 2. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

Senate Bill 2457

Description: Highways; revise definition of off-road vehicle to include recreational off-highway vehicles and other new designs.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2013

Chapter Number: 330

History of Actions:

- | | | | |
|----|-------|-----|---|
| 1 | 01/21 | (S) | Referred To Highways and Transportation |
| 2 | 02/04 | (S) | Title Suff Do Pass |
| 3 | 02/06 | (S) | Passed {Vote} |
| 4 | 02/07 | (S) | Transmitted To House |
| 5 | 02/21 | (H) | Referred To Transportation |
| 6 | 02/27 | (H) | Title Suff Do Pass |
| 7 | 02/28 | (H) | Passed {Vote} |
| 8 | 03/01 | (H) | Transmitted To Senate |
| 9 | 03/04 | (S) | Enrolled Bill Signed |
| 10 | 03/04 | (H) | Enrolled Bill Signed |
| 11 | 03/11 | | Approved by Governor |

Code Section: A 063-0031-0001, A 063-0031-0003

----- Additional Information -----

Senate Committee: Highways and Transportation

House Committee: Transportation

Principal Author: Simmons (13th)

Additional Authors: Hudson, Parks, Ward

Title: AN ACT TO AMEND SECTION 63-31-3, MISSISSIPPI CODE OF 1972, TO REVISE THE DEFINITION OF OFF-ROAD VEHICLE TO INCLUDE RECREATIONAL OFF-HIGHWAY VEHICLES AND OTHER NEW DESIGN VEHICLES; TO REVISE THE DEFINITION OF ALL-TERRAIN VEHICLES; TO AMEND SECTION 63-31-1, MISSISSIPPI CODE OF 1972, TO CONFORM; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Highways and Transportation

By: Senator(s) Simmons (13th), Hudson, Parks, Ward

Senate Bill 2457

(As Sent to Governor)

AN ACT TO AMEND SECTION 63-31-3, MISSISSIPPI CODE OF 1972, TO REVISE THE DEFINITION OF OFF-ROAD VEHICLE TO INCLUDE RECREATIONAL OFF-HIGHWAY VEHICLES AND OTHER NEW DESIGN VEHICLES; TO REVISE THE DEFINITION OF ALL-TERRAIN VEHICLES; TO AMEND SECTION 63-31-1, MISSISSIPPI CODE OF 1972, TO CONFORM; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 63-31-1, Mississippi Code of 1972, is amended as follows:

63-31-1. It is the intent of the Legislature that all persons shall operate* * * off-road vehicles in accordance with the vehicle manufacturer's guidelines.

SECTION 2. Section 63-31-3, Mississippi Code of 1972, is amended as follows:

63-31-3. (1) No off-road vehicle shall be operated upon any public property by any person unless:

(a) (i) The person possesses a valid driver's license;
or

(ii) The person possesses a certificate as provided under subsections (3) and (4) of this section.

(b) No person may operate any off-road vehicle upon any public property in this state unless each person under sixteen (16) years of age who is operating or riding on the off-road vehicle is wearing a crash helmet that complies with minimum guidelines established by the National Highway Traffic Safety Administration pursuant to the federal Motor Vehicle Safety Standard No. 218 (49 CFR 571.218) for helmets designed for use by motorcyclists.

(2) A violation of subsection (1) of this section is punishable by a fine of not less than Twenty-five Dollars (\$25.00) nor more than Fifty Dollars (\$50.00).

(3) Off-road vehicle safety courses shall be held by the Cooperative Extension Service using 4-H safety course materials and curricula, and shall be taught by instructors possessing qualifications approved by the Department of Public Safety. The Cooperative Extension Service shall issue a certificate to each person who satisfactorily completes the off-road vehicle safety course.

(4) Off-road vehicle safety courses may be held by any organization approved by the Department of Public Safety. Such organization shall issue a certificate to each person who satisfactorily completes the off-road vehicle safety course.

(5) For the purposes of this section:

(a) "Off-road vehicle" means any all-terrain vehicle* * *, dirt bike or recreational off-highway vehicle.

(b) "All-terrain vehicle" or "ATV" means any motorized vehicle manufactured and designed exclusively for off-road use that is fifty (50) inches or less in width; has an unladen dry weight of* * * one thousand (1,000) pounds or less; and travels on three (3), four (4) or more* * * nonhighway tires* * *.

(c) "Dirt bike" means a motor-powered vehicle possessing two (2) or more tires, designed to travel over any terrain and capable of travelling off of paved roads, whether or not the vehicle may be operated legally on a public street.

(d) "Recreational off-highway vehicle" means any motorized vehicle manufactured and designed exclusively for off-road use that is sixty-five (65) inches or less in width; has an unladen dry weight of two thousand (2,000) pounds or less; and travels on four (4) or more nonhighway tires.

(6) Nothing in this section shall be construed to authorize operation of an off-road vehicle on a public road or highway of this state.

SECTION 3. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

Senate Bill 2491

Description: Scenic byways; designate certain segments as "Delta Bluffs Scenic Byway."

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: Passage

Chapter Number: 313

History of Actions:

- | | | | |
|----|-------|-----|---|
| 1 | 01/21 | (S) | Referred To Highways and Transportation |
| 2 | 02/04 | (S) | Title Suff Do Pass |
| 3 | 02/06 | (S) | Passed {Vote} |
| 4 | 02/07 | (S) | Transmitted To House |
| 5 | 02/21 | (H) | Referred To Transportation |
| 6 | 02/27 | (H) | Title Suff Do Pass |
| 7 | 02/28 | (H) | Passed {Vote} |
| 8 | 03/01 | (H) | Transmitted To Senate |
| 9 | 03/04 | (S) | Enrolled Bill Signed |
| 10 | 03/04 | (H) | Enrolled Bill Signed |
| 11 | 03/07 | | Approved by Governor |

----- **Additional Information** -----

Senate Committee: Highways and Transportation

House Committee: Transportation

Principal Author: Massey

Additional Authors: Parker

Title: AN ACT TO DESIGNATE CERTAIN SEGMENTS OF ROAD IN DESOTO COUNTY AS AN OFFICIAL MISSISSIPPI SCENIC BYWAY TO BE KNOWN AS THE "DELTA BLUFFS SCENIC BYWAY"; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI SB 2491

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Highways and Transportation

By: Senator(s) Massey, Parker

Senate Bill 2491

(As Sent to Governor)

AN ACT TO DESIGNATE CERTAIN SEGMENTS OF ROAD IN DESOTO COUNTY AS AN OFFICIAL MISSISSIPPI SCENIC BYWAY TO BE KNOWN AS THE "DELTA BLUFFS SCENIC BYWAY"; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. The following highways, roads or streets located in the State of Mississippi are hereby designated in the following three (3) segments as an official Mississippi Scenic Byway to be known as the "Delta Bluffs Scenic Byway" pursuant to Section 65-41-1 et seq.:

(a) Northern Branch: Beginning at the intersection of Austin Road and Mississippi Highway 301 and continuing westward to the intersection of Delta View Road and Austin Road; then north along Delta View Road to the Great River Road National Scenic Byway (connectivity through the Town of Walls via Delta View Road, U.S. Highway 161 and 2nd Street);

(b) Central Branch: Beginning at the intersection of Mississippi Highway 301 and Austin Road and continuing south along Mississippi Highway 301 to Arkabutla Lake; and

(c) East-West Branch: Beginning at the intersection of Old Mississippi Highway 304 and Interstate 55 in Hernando and continuing westward to Bluff Road.

SECTION 2. This act shall take effect and be in force from and after its passage.

Mississippi Legislature

2013 Regular Session

Senate Bill 2496

Description: Memorial Highways; direct MDOT to relocate signage for the “Albert B. Shows Memorial Highway.”

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: Passage

Chapter Number: 314

History of Actions:

1	01/21	(S)	Referred To Highways and Transportation
2	02/04	(S)	Title Suff Do Pass Comm Sub
3	02/06	(S)	Committee Substitute Adopted
4	02/06	(S)	Passed {Vote}
5	02/07	(S)	Transmitted To House
6	02/21	(H)	Referred To Transportation
7	02/26	(H)	Title Suff Do Pass
8	02/28	(H)	Passed {Vote}
9	03/01	(H)	Transmitted To Senate
10	03/04	(S)	Enrolled Bill Signed
11	03/04	(H)	Enrolled Bill Signed
12	03/07		Approved by Governor

Code Section: A 065-0003-0071.102

----- **Additional Information** -----

Senate Committee: Highways and Transportation

House Committee: Transportation

Principal Author: McDaniel

Title: AN ACT TO AMEND SECTION 65-3-71.102, MISSISSIPPI CODE OF 1972, TO DIRECT THE MISSISSIPPI DEPARTMENT OF TRANSPORTATION TO RELOCATE THE SIGNAGE FOR THE “ALBERT B. SHOWS MEMORIAL HIGHWAY”; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI SB 2496

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Highways and Transportation

By: Senator(s) McDaniel

Senate Bill 2496

(As Sent to Governor)

AN ACT TO AMEND SECTION 65-3-71.102, MISSISSIPPI CODE OF 1972, TO DIRECT THE MISSISSIPPI DEPARTMENT OF TRANSPORTATION TO RELOCATE THE SIGNAGE FOR THE "ALBERT B. SHOWS MEMORIAL HIGHWAY"; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 65-3-71.102, Mississippi Code of 1972, is amended as follows:

65-3-71.102. (1) That segment of U.S. Highway 29 in Jones County, beginning at the Jones/Perry County line and extending to the southern city limits of Ellisville is designated and shall be known as the "Albert B. Shows Memorial Highway."

(2) (a) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the segment of highway described in subsection (1) of this section.

(b) The Mississippi Department of Transportation is directed to relocate the signage placed by the cemetery at the southern city limits of Ellisville on Mississippi Highway 29 to approximately one hundred (100) yards south of Augusta Road on the Interstate 59 and Mississippi Highway 590 bypass.

SECTION 2. This act shall take effect and be in force from and after its passage.

Mississippi Legislature

2013 Regular Session

Senate Bill 2499

Description: Gaming; courses related to service industry may be taught at certain state universities and colleges.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2013

Chapter Number: 327

History of Actions:

- | | | | |
|----|-------|-----|---------------------------------------|
| 1 | 01/21 | (S) | Referred To Universities and Colleges |
| 2 | 02/05 | (S) | Title Suff Do Pass |
| 3 | 02/07 | (S) | Passed {Vote} |
| 4 | 02/08 | (S) | Transmitted To House |
| 5 | 02/21 | (H) | Referred To Gaming |
| 6 | 02/27 | (H) | Title Suff Do Pass |
| 7 | 02/28 | (H) | Passed {Vote} |
| 8 | 03/01 | (H) | Transmitted To Senate |
| 9 | 03/04 | (S) | Enrolled Bill Signed |
| 10 | 03/04 | (H) | Enrolled Bill Signed |
| 11 | 03/08 | | Approved by Governor |

Code Section: A 075-0076-0034, A 075-0076-0055, A 037-0101-0013, A 037-0029-0001, A 037-0029-0063

----- Additional Information -----

Senate Committee: Universities and Colleges

House Committee: Gaming

Principal Author: Gollott

Additional Authors: Chassaniol, Horhn, Jackson (32nd), Moran, Simmons (12th)

Title: AN ACT TO AMEND SECTION 75-76-34, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT CERTAIN COURSES RELATED TO EMPLOYMENT IN THE GAMING INDUSTRY MAY BE OFFERED AT STATE INSTITUTIONS OF HIGHER LEARNING AND PUBLIC COMMUNITY COLLEGES, ONLY IN THOSE COUNTIES

WHERE GAMING IS LEGALLY BEING CONDUCTED AND THE PARTICULAR INSTITUTION OR COLLEGE OFFERING SUCH COURSES IS LOCATED; TO PROVIDE THAT STATE INSTITUTIONS OF HIGHER LEARNING AND PUBLIC COMMUNITY COLLEGES OFFERING SUCH COURSES SHALL NOT BE SUBJECT TO REGULATION BY THE MISSISSIPPI GAMING COMMISSION; TO AMEND SECTIONS 75-76-55, 37-101-13, 37-29-1 AND 37-29-63, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI SB 2499

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Universities and Colleges

By: Senator(s) Gollott, Chassaniol, Horhn, Jackson (32nd),
Moran, Simmons (12th)

Senate Bill 2499

(As Sent to Governor)

AN ACT TO AMEND SECTION 75-76-34, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT CERTAIN COURSES RELATED TO EMPLOYMENT IN THE GAMING INDUSTRY MAY BE OFFERED AT STATE INSTITUTIONS OF HIGHER LEARNING AND PUBLIC COMMUNITY COLLEGES, ONLY IN THOSE COUNTIES WHERE GAMING IS LEGALLY BEING CONDUCTED AND THE PARTICULAR INSTITUTION OR COLLEGE OFFERING SUCH COURSES IS LOCATED; TO PROVIDE THAT STATE INSTITUTIONS OF HIGHER LEARNING AND PUBLIC COMMUNITY COLLEGES OFFERING SUCH COURSES SHALL NOT BE SUBJECT TO REGULATION BY THE MISSISSIPPI GAMING COMMISSION; TO AMEND SECTIONS 75-76-55, 37-101-13, 37-29-1 AND 37-29-63, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 75-76-34, Mississippi Code of 1972, is amended as follows:

75-76-34. (1) Except as otherwise provided in this section, the Mississippi Gaming Commission is authorized to regulate all schools or training institutions that teach or train gaming employees.* * * No such school shall be located on publicly owned property,* * * other than property under the jurisdiction of the Board of Trustees of State Institutions of Higher Learning or a public community college. Except as authorized under this section, no public school shall teach or train persons to be gaming employees. The gaming educational activities of schools or training institutions regulated by the commission and of state institutions of higher learning and public community colleges shall be deemed to be legal under the laws of the State of Mississippi. Any person desiring to operate a school or training institution other than a state institution of higher learning or public community college must file a license application with the executive director to be licensed by the commission.

(2) The commission may adopt regulations it deems necessary to regulate schools and training institutions other than state institutions of higher learning and public community colleges. These regulations shall, without limiting the general powers of the commission, include the following:

(a) Prescribing the method and form of application which any applicant for a school or training institution must follow and complete before consideration of his application by the executive director or commission.

(b) Prescribing the information to be furnished by the applicant relating to his employees.

(c) Requiring fingerprinting of the applicant, employees and students of the school or institution or other methods of identification and the forwarding of all fingerprints taken pursuant to regulation of the Federal Bureau of Investigation.

(d) Requiring any applicant to pay all or part of the fees and costs of investigation of the applicant as may be determined by the commission.

(e) Prescribing the manner and method of collection and payment of fees and costs and issuance of licenses to schools or training institutions.

(f) Prescribing under what conditions a licensee authorized by this section may be deemed subject to revocation or suspension of his license.

(g) Defining the curriculum of the school or training institution, the games and devices permitted, the use of tokens only for instruction purposes, and the method of operation of games and devices.

(h) Requiring the applicant to submit its location of the school or training institution, which shall be at least four hundred (400) feet from any church, school, kindergarten or funeral home. However, within an area zoned commercial or business, the minimum distance shall not be less than one hundred (100) feet.

(i) Requiring that all employees and students of the school or training institution be at least twenty-one (21) years of age.

(j) Requiring all employees and students of the school or training institution to wear identification cards issued

by the commission while on the premises of the school or training institution.

(k) Requiring the commission to investigate each applicant, employee and student and determine that the individual does not fall within any one (1) of the following categories:

(i) Is under indictment for, or has been convicted in any court of, a felony;

(ii) Is a fugitive from justice;

(iii) Is an unlawful user of any controlled substance, is addicted to any controlled substance or alcoholic beverage, or is an habitual drunkard;

(iv) Is a mental defective, has been committed to a mental institution, or has been voluntarily committed to a mental institution on more than one (1) occasion;

(v) Has been discharged from the Armed Forces under dishonorable conditions; or

(vi) Has been found at any time by the executive director or commission to have falsified any information.

(3) State institutions of higher learning and community colleges may offer credited courses specifically relating to gaming management, including, but not limited to, courses that provide instruction in accounting, hospitality, marketing, auditing, finance, procurement, security and regulatory requirements in fulfillment of a degree in general business management, hotel and motel management, food and beverage management, gaming management, accounting or criminal justice. State institutions of higher learning and community colleges are not subject to regulation by the commission for the purposes of this subsection. The courses authorized by this subsection may be offered only in those counties where gaming is legally being conducted and where the institution is located.

(4) State institutions of higher learning and public community colleges may offer courses related to casino hospitality services, cage and count operations, and slot machine maintenance. Slot machine maintenance training may be performed only on equipment approved by the commission for training purposes only. State institutions of higher learning and public community colleges are not subject to regulation

by the commission for the purposes of this subsection. The courses authorized by this subsection may be offered only in those counties where gaming is legally being conducted and where the institution or community college is located.

SECTION 2. Section 75-76-55, Mississippi Code of 1972, is amended as follows:

75-76-55. (1) Except as otherwise provided in Section 75-76-34, it is unlawful for any person, either as owner, lessee or employee, whether for hire or not, either solely or in conjunction with others, without having first procured and thereafter maintaining in effect a state gaming license:

(a) To deal, operate, carry on, conduct, maintain or expose for play in the State of Mississippi any gambling game, including, without limitation, any gaming device, slot machine, race book or sports pool;

(b) To provide or maintain any information service the primary purpose of which is to aid the placing or making of wagers on events of any kind; or

(c) To receive, directly or indirectly, any compensation or reward or any percentage or share of the money or property played, for keeping, running or carrying on any gambling game, including, without limitation, any slot machine, gaming device, race book or sports pool.

(2) Except as otherwise provided in Section 75-76-34, it is unlawful for any person knowingly to permit any gambling game, including, without limitation, any slot machine, gaming device, race book or sports pool to be conducted, operated, dealt or carried on in any house or building or other premises owned by him, in whole or in part, by a person who is not licensed pursuant to this chapter or by his employee.

SECTION 3. Section 37-101-13, Mississippi Code of 1972, is amended as follows:

37-101-13. It shall be the duty of the Board of Trustees of State Institutions of Higher Learning and the boards of trustees of the community colleges to begin immediately a comprehensive* * * study of* * * gaming and related programs* * * degrees and courses offered. Following the completion of such study, the board shall make such adjustments as may be found to be necessary in the programs of the various institutions, to the end that the broadest possible educational

opportunities shall be offered to the citizens of this state without inefficient and needless duplication. Subject to the provisions of Section 75-76-34, the board shall, through such officers of the board and through such procedures as it shall see fit to establish, exercise continuing jurisdiction and control over the establishment of new courses of study, new departments and new functions and activities in each institution so that the growth and development of the program of higher education in the state shall proceed in an orderly and rational manner, inefficient and needless duplication may be avoided, and new expanded programs will be undertaken only as the same may become justified, based upon objective criteria to be established by the board. In carrying out the purposes of this section, particular attention shall be given to the extension programs of the various institutions. The* * * boards, in conjunction with the chancellor and presidents of the institutions* * *, shall take such steps as may be necessary to improve and coordinate such programs and shall exercise such direct control over the establishment, organization, operation and granting of credit for such programs as may be necessary to accomplish such purposes.

SECTION 4. Section 37-29-1, Mississippi Code of 1972, is amended as follows:

37-29-1. (1) The creation, establishment, maintenance and operation of community* * * colleges is authorized. Community* * * colleges may admit students if they have earned one (1) unit less than the number of units required for high school graduation established by State Board of Education policy or have earned a General Education Diploma (GED) in courses correlated to those of senior colleges or professional schools. Subject to the provisions of Section 75-76-34, they shall offer, without limitation, education and training preparatory for occupations such as agriculture, industry of all kinds, business, homemaking and for other occupations on the semiprofessional and vocational-technical level. They may offer courses and services to students regardless of their previous educational attainment or further academic plans.

(2) The boards of trustees of the community* * * college districts are authorized to establish an early admission program under which applicants having a minimum ACT composite score of twenty-six (26) or the equivalent SAT score may be admitted as full-time college students if the principal

or guidance counselor of the student recommends in writing that it is in the best educational interest of the student. Such recommendation shall also state that the student's age will not keep him from being a successful full-time college student. Students admitted in the early admission program shall not be counted for adequate education program funding purposes in the average daily attendance of the school district in which they reside, and transportation required by a student to participate in the early admission program shall be the responsibility of the parents or legal guardians of the student. Grades and college credits earned by students admitted to the early admission program shall be recorded on the college transcript at the community* * * college where the student attends classes, and may be released to another institution or used for college graduation requirements only after the student has successfully completed one (1) full semester of course work.

(3) The community* * * colleges shall provide, through courses or other acceptable educational measures, the general education necessary to individuals and groups which will tend to make them capable of living satisfactory lives consistent with the ideals of a democratic society.

SECTION 5. Section 37-29-63, Mississippi Code of 1972, is amended as follows:

37-29-63. (1) The president of any community* * * college, or such other person designated or authorized by the board of trustees, shall have the power to recommend to the board of trustees all teachers to be employed in the district.

(2) The president may remove or suspend any member of the faculty subject to the approval of the trustees. He shall be the general manager of all fiscal and administrative affairs of the district with full authority to select, direct, employ and discharge any and all employees other than teachers; however, the board may make provisions and establish policies for leave for faculty members and other key personnel.

(3) The president shall have the authority, subject to the provisions of Section 75-76-34 and Sections 37-29-1 through 37-29-273 and the approval of the trustees, to arrange and survey courses of study, fix schedules, and establish and enforce rules and discipline for the governing of teachers and students. He shall be the general custodian of the property of the district.

2013 GENERAL LAWS OF MISSISSIPPI SB 2499

SECTION 6. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

Senate Bill 2511

Description: Agriculture; revise syrup labeling requirements and provide for administrative penalties for violations.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2013

Chapter Number: 323

History of Actions:

- | | | | |
|----|-------|-----|------------------------------|
| 1 | 01/21 | (S) | Referred To Agriculture |
| 2 | 01/31 | (S) | Title Suff Do Pass |
| 3 | 02/06 | (S) | Tabled Subject To Call |
| 4 | 02/06 | (S) | Passed {Vote} |
| 5 | 02/06 | (S) | Motion to Reconsider Entered |
| 6 | 02/12 | (S) | Motion to Reconsider Tabled |
| 7 | 02/12 | (S) | Transmitted To House |
| 8 | 02/20 | (H) | Referred To Agriculture |
| 9 | 02/26 | (H) | Title Suff Do Pass |
| 10 | 02/28 | (H) | Passed {Vote} |
| 11 | 03/01 | (H) | Transmitted To Senate |
| 12 | 03/05 | (S) | Enrolled Bill Signed |
| 13 | 03/05 | (H) | Enrolled Bill Signed |
| 14 | 03/07 | | Approved by Governor |

Code Section: A 075-0029-0201, A 075-0029-0203, A 075-0029-0205, A 075-0029-0211, RP 075-0029-0207

----- Additional Information -----

Senate Committee: Agriculture

House Committee: Agriculture

Principal Author: Hudson

Title: AN ACT TO AMEND SECTION 75-29-201, MISSISSIPPI CODE OF 1972, TO REVISE SYRUP LABELING REQUIREMENTS; TO RECODIFY CERTAIN

UNLAWFUL LABELING ACTS; TO AMEND SECTION 75-29-203, MISSISSIPPI CODE OF 1972, TO CHANGE REFERENCE TO COMMISSIONER OF AGRICULTURE AND COMMERCE; TO AMEND SECTION 75-29-205, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR AN APPEAL FROM STOP SALE ORDERS; TO AMEND SECTION 75-29-211, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR ADMINISTRATIVE PENALTIES FOR VIOLATIONS; TO CREATE A NEW CODE SECTION TO REQUIRE SYRUP DISTRIBUTORS TO KEEP CERTAIN RECORDS; TO REPEAL SECTION 79-29-207, MISSISSIPPI CODE OF 1972, WHICH MADE IT UNLAWFUL TO USE A FICTITIOUS NAME ON SYRUP LABELS; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI SB 2511

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Agriculture

By: Senator(s) Hudson

Senate Bill 2511

(As Sent to Governor)

AN ACT TO AMEND SECTION 75-29-201, MISSISSIPPI CODE OF 1972, TO REVISE SYRUP LABELING REQUIREMENTS; TO RECODIFY CERTAIN UNLAWFUL LABELING ACTS; TO AMEND SECTION 75-29-203, MISSISSIPPI CODE OF 1972, TO CHANGE REFERENCE TO COMMISSIONER OF AGRICULTURE AND COMMERCE; TO AMEND SECTION 75-29-205, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR AN APPEAL FROM STOP SALE ORDERS; TO AMEND SECTION 75-29-211, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR ADMINISTRATIVE PENALTIES FOR VIOLATIONS; TO CREATE A NEW CODE SECTION TO REQUIRE SYRUP DISTRIBUTORS TO KEEP CERTAIN RECORDS; TO REPEAL SECTION 79-29-207, MISSISSIPPI CODE OF 1972, WHICH MADE IT UNLAWFUL TO USE A FICTITIOUS NAME ON SYRUP LABELS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 75-29-201, Mississippi Code of 1972, is amended as follows:

75-29-201. (1) Every container of syrup sold, offered, or exposed for sale, through a retail outlet, by an individual, firm or corporation in the State of Mississippi shall have on the outside of each container a paper label, permanent type stamped imprint, or embossed material on the container itself, plainly printed in the English language, and truly certifying the net contents of the packet, the name, brand, and the name and address of the person, or processor, offering such syrup for sale, and a true statement of the contents contained therein.

(2) It shall be unlawful for any individual, firm, organization or corporation to label, sell, offer for sale or expose for sale at the retail level of trade any product as "pure syrup" that does not meet the minimum requirements established by the Mississippi Department of Agriculture and Commerce. Syrup from the juice of sugar cane or sorghum may be labeled "pure cane" or "pure sorghum" syrup to coincide with the contents therein. Any other type of syrup must show

the name of all ingredients* * * with ingredients listed in descending order of predominance of weight.

(3) It shall be unlawful for any manufacturer or distributor of syrup or syrup products to use a fictitious name or address on the container label.

SECTION 2. Section 75-29-203, Mississippi Code of 1972, is amended as follows:

75-29-203. The* * * Mississippi Department of Agriculture and Commerce* * * is hereby vested with the authority and responsibility for carrying out the provisions of this article, and the Commissioner of Agriculture and Commerce, or his representative,* * * shall be furnished samples of syrup or syrup products from the individual, firm organization or corporation, upon request, and shall have* * * the products analyzed by the state chemist.

SECTION 3. Section 75-29-205, Mississippi Code of 1972, is amended as follows:

75-29-205. The Commissioner of Agriculture and Commerce is authorized, in his discretion, to issue an order to stop the sale or distribution of any syrup or syrup products found to be in violation of this article. Upon written notice by the commissioner to the manufacturer or distributor of the syrup or syrup products sold in violation of this article,* * * the syrup or syrup products shall be picked up by the manufacturer or distributor* * * and the buyer of* * * the syrup or syrup products shall be refunded the purchase price by the manufacturer or distributor. Any order to stop the sale of syrup or syrup products may be appealed to the Chancery Court of the First Judicial District of Hinds County or the chancery court in the county where the violation occurred within thirty (30) days of receipt of the order.

SECTION 4. Section 75-29-211, Mississippi Code of 1972, is amended as follows:

75-29-211. (1) Except as otherwise provided in subsection (2) of this section, any person violating the provisions of this article shall be guilty of a misdemeanor and, upon conviction, shall be punished for such violation; and each infraction shall constitute a separate offense.

(2) Any manufacturer or distributor found to be in violation of the labeling requirements of Section 75-29-201, shall,

upon conviction therefor, be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) or imprisoned for a period of time not to exceed ninety (90) days, or both.

(3) Any person who by himself, by his agent, or as the agent of another person, commits a violation of this chapter may be assessed by the commissioner, or his designee, an administrative penalty of:

(a) Not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00) for a first violation;

(b) Not less than One Hundred Dollars (\$100.00) nor more than Two Thousand Dollars (\$2,000.00) for a second violation within twelve (12) months of the first violation; and

(c) Not less than One Thousand Dollars (\$1,000.00) nor more than Three Thousand Dollars (\$3,000.00) for a third violation within eighteen (18) months from the date of the first violation.

(4) Any person subject to an administrative penalty shall have a right to request an administrative hearing within thirty (30) days of receipt of the notice of the penalty. The commissioner, or his designee, shall be authorized to conduct the hearing after giving appropriate notice to the respondent. The commissioner may issue subpoenas to require the attendance of witnesses and the production of documents. The decision of the commissioner or his/her designee shall be subject to appropriate judicial review.

(5) If the respondent has exhausted his administrative appeals and the civil penalty has been upheld, he shall pay the civil penalty within thirty (30) days of the effective date of the final decision. If the respondent fails to pay the penalty, a civil action may be brought by the commissioner in any court of competent jurisdiction. Any civil penalty collected under this article shall be transmitted to the General Fund.

(6) In lieu of, or in addition to, the penalties provided, the commissioner shall have the power to institute and maintain in the name of the state any and all proceedings necessary or appropriate to enforce the provisions of this article and the rules and regulations, in the appropriate circuit, chancery, county or justice court in which venue may lie. The commissioner may obtain mandatory or prohibitory injunctive

relief, whether temporary or permanent, and it shall not be necessary for the state to post a bond or prove that no adequate remedy is available at law.

SECTION 5. Distributors are required to keep records of the names and addresses of the manufacturers whose syrup they distribute for a period of three (3) years and to provide that information to the commissioner upon request to aid the commissioner in locating the source of adulterated syrup or syrup products.

SECTION 6. Section 75-29-207, Mississippi Code of 1972, which made it unlawful to use a fictitious name on syrup labels, is repealed.

SECTION 7. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

Senate Bill 2513

Description: Agriculture; require certain fish products to meet same labeling requirements of catfish products.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2013

Chapter Number: 371

History of Actions:

- | | | |
|----|-------|-----------------------------|
| 1 | 01/21 | (S) Referred To Agriculture |
| 2 | 01/31 | (S) Title Suff Do Pass |
| 3 | 02/07 | (S) Passed {Vote} |
| 4 | 02/08 | (S) Transmitted To House |
| 5 | 02/20 | (H) Referred To Agriculture |
| 6 | 02/26 | (H) Title Suff Do Pass |
| 7 | 03/07 | (H) Passed {Vote} |
| 8 | 03/11 | (H) Transmitted To Senate |
| 9 | 03/13 | (S) Enrolled Bill Signed |
| 10 | 03/14 | (H) Enrolled Bill Signed |
| 11 | 03/19 | Approved by Governor |

Code Section: A 069-0007-0607

----- Additional Information -----

Senate Committee: Agriculture

House Committee: Agriculture

Principal Author: Hudson

Title: AN ACT TO AMEND SECTION 69-7-607, MISSISSIPPI CODE OF 1972, TO REQUIRE FISH PRODUCTS AS DEFINED IN THE CATFISH MARKETING LAW TO BE SUBJECT TO SAME LABELING REQUIREMENTS AS CATFISH PRODUCTS; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI SB 2513

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Agriculture

By: Senator(s) Hudson

Senate Bill 2513

(As Sent to Governor)

AN ACT TO AMEND SECTION 69-7-607, MISSISSIPPI CODE OF 1972, TO REQUIRE FISH PRODUCTS AS DEFINED IN THE CATFISH MARKETING LAW TO BE SUBJECT TO SAME LABELING REQUIREMENTS AS CATFISH PRODUCTS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 69-7-607, Mississippi Code of 1972, is amended as follows:

69-7-607. (1) Notice of country of origin.

(a) General requirements:

(i) All retailers of catfish and fish products, as defined in Section 69-7-605, shall inform consumers, at the final point of sale of the catfish or fish to the consumers, of the country of origin of the catfish or fish;

(ii) United States country of origin. A retailer of catfish or fish products may designate the catfish or fish as having a United States country of origin only if:

1. In case of "Farm-raised Catfish or Farm-raised Fish," it is hatched, raised, harvested and processed in the United States;

2. In case of "River or Lake Catfish or River or Lake Fish," it is:

a. Harvested in waters of the United States, a territory of the United States or a state, including the waters thereof; and

b. Processed in the United States, a territory of the United States or a state, including the waters thereof;

(iii) Farm-raised and River or Lake Catfish, Farm-raised and River or Lake Fish. The notice of country of origin for "Farm-raised Catfish," or "Farm-raised Fish," and "River or Lake Catfish" or "River or Lake Fish" shall distinguish

between "Farm-raised Catfish" and "River or Lake Catfish* * *" or "Farm-raised Fish" and "River or Lake Fish."

(b) Method of notification.

(i) Retailers.

1. The information required by paragraph (a) of subsection (1) of this section may be provided to consumers by means of a label, stamp, mark, placard or other clear and visible sign on the catfish or fish or on the package, display, holding unit or bin containing the catfish or fish at the final point of sale to consumers.

2. If the catfish or fish is already individually labeled for retail sale regarding country of origin, the retailer shall not be required to provide any additional information to comply with this section.

(ii) Food service establishments. The information required by paragraph (a) of subsection (1) of this section shall be provided to the consumer on the menu of the food service establishment. For foreign or imported catfish or fish, the information shall be adjacent to the item on the menu and printed in the same font style and size as the item. If the food service establishment offers for sale only catfish or fish having a United States country of origin, then the food service establishment may generally disclose this in a prominent location in the food service establishment in lieu of disclosure on the menu. The signage disclosing the sale of catfish or fish having a United States country of origin, that is to be placed in a prominent location in the food service establishment, shall be approved* * * by the Mississippi Department of Agriculture and Commerce, which shall be held harmless in a cause of action for a retail or food service establishment's failure to disclose or fraudulent disclosure. Any liability arising from failure to disclose country of origin shall remain with the wholesaler and the retail or food service establishment.

(c) The commissioner may require that any person that prepares, stores, handles or distributes catfish or fish for retail sale maintain a verifiable record-keeping audit trail that permits the commissioner to verify compliance with this law and any regulations promulgated hereunder.

(d) Any distributor or wholesaler engaged in the business of supplying catfish or fish to a retailer or food service

establishment shall provide information to the retailer or food service establishment indicating the country of origin of the catfish or fish. The information shall include certification of origin through a state or federal agency that regulates the processing of catfish or fish or through a federal agency that verifies that catfish or fish and/or other products produced in countries other than the United States meets similar sanitation requirements.

(2) Any advertising as to any catfish or fish product shall state the information required in paragraph (a) of subsection (1) of this section.

(3) The term "catfish" shall not be used as a common name or in the label name of fish product except as provided in this section.

(4) The commissioner shall have authority to enter the premises of any wholesaler, processor, distributor, retailer or any other person selling catfish or fish products in order to determine compliance with this article.

(5) This section shall not apply to catfish or fish products exported out of the United States.

SECTION 2. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

Senate Bill 2536

Description: Free port warehouse; clarify date ad valorem tax exemption takes effect.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Three/Fifths

Effective date: Passage

Chapter Number: 325

History of Actions:

- 1 01/21 (S) Referred To Finance
- 2 01/31 (S) Title Suff Do Pass Comm Sub
- 3 02/07 (S) Committee Substitute Adopted
- 4 02/07 (S) Passed {Vote}
- 5 02/08 (S) Transmitted To House
- 6 02/20 (H) Referred To Ways and Means
- 7 02/27 (H) Title Suff Do Pass
- 8 02/27 (H) Passed {Vote}
- 9 02/28 (H) Transmitted To Senate
- 10 03/04 (S) Enrolled Bill Signed
- 11 03/04 (H) Enrolled Bill Signed
- 12 03/07 Approved by Governor

Code Section: A 027-0031-0053

----- Additional Information -----

Senate Committee: Finance

House Committee: Ways and Means

Principal Author: Doty

Title: AN ACT TO AMEND SECTION 27-31-53, MISSISSIPPI CODE OF 1972, TO CLARIFY THE DATE UPON WHICH THE AD VALOREM TAX EXEMPTION GRANTED BY LOCAL GOVERNMENTS FOR LICENSED FREE PORT WAREHOUSES TAKES EFFECT; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Finance

By: Senator(s) Doty

Senate Bill 2536
(As Sent to Governor)

AN ACT TO AMEND SECTION 27-31-53, MISSISSIPPI CODE OF 1972, TO CLARIFY THE DATE UPON WHICH THE AD VALOREM TAX EXEMPTION GRANTED BY LOCAL GOVERNMENTS FOR LICENSED FREE PORT WAREHOUSES TAKES EFFECT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 27-31-53, Mississippi Code of 1972, is amended as follows:

[Through June 30, 2013, this section shall read as follows:]

27-31-53. All or a portion of the assessed value of personal property in transit through this state which is (a) moving in interstate commerce through or over the territory of the State of Mississippi, (b) which was consigned or transferred to a licensed "free port warehouse," public or private, within the State of Mississippi for storage in transit to a final destination outside the State of Mississippi, whether specified when transportation begins or afterward, or (c) manufactured in the State of Mississippi and stored in separate facilities, structures, places or areas maintained by a manufacturer, licensed as a free port warehouse, for temporary storage and handling pending transit to a final destination outside the State of Mississippi, may, in the discretion of the board of supervisors of the county wherein the warehouse or storage facility is located, and in the discretion of the governing authorities of the municipality wherein the warehouse or storage facility is located, as the case may be, * * * be exempt from all ad valorem taxes imposed by the respective county or municipality and the property exempted therefrom shall not be deemed to have acquired a situs in the State of Mississippi for the purposes of such taxation. Any exemption granted to a licensed "free port warehouse" pursuant to this section shall be effective as of the first calendar day of the taxable year in which the warehouse applied for the exemption by virtue of submitting the application for licensure, and shall remain in effect for such period of time as the respective governing

authority may prescribe. The governing authorities may exempt all or a portion of the assessed value of such property. Such property shall not be deprived of such exemption because while in a warehouse the property is bound, divided, broken in bulk, labeled, relabeled or repackaged. Any exemption from ad valorem taxes granted before January 1, 2012, is hereby ratified, approved and confirmed.

[From and after July 1, 2013, this section shall read as follows:]

27-31-53. All personal property in transit through this state which is (a) moving in interstate commerce through or over the territory of the State of Mississippi, (b) which was consigned or transferred to a licensed "free port warehouse," public or private, within the State of Mississippi for storage in transit to a final destination outside the State of Mississippi, whether specified when transportation begins or afterward, or (c) manufactured in the State of Mississippi and stored in separate facilities, structures, places or areas maintained by a manufacturer, licensed as a free port warehouse, for temporary storage or handling pending transit to a final destination outside the State of Mississippi, may, in the discretion of the board of supervisors of the county wherein the warehouse or storage facility is located, and in the discretion of the governing authorities of the municipality wherein the warehouse or storage facility is located, as the case may be,* * * be exempt from all ad valorem taxes imposed by the respective county or municipality and the property exempted therefrom shall not be deemed to have acquired a situs in the State of Mississippi for the purposes of such taxation. Any exemption granted to a licensed "free port warehouse" pursuant to this section shall be effective as of the first calendar day of the taxable year in which the warehouse applied for the exemption by virtue of submitting the application for licensure, and shall remain in effect for such period of time as the respective governing authority may prescribe. Such property shall not be deprived of exemption because while in a warehouse the property is bound, divided, broken in bulk, labeled, relabeled or repackaged. Any exemption from ad valorem taxes granted before January 1, 2012, is hereby ratified, approved and confirmed.

SECTION 2. This act shall take effect and be in force from and after its passage.

Mississippi Legislature

2013 Regular Session

Senate Bill 2557

Description: MS Debt Management Services Act; extend repealer on.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Three/Fifths

Effective date: July 1, 2013

Chapter Number: 348

History of Actions:

1	01/21	(S)	Referred To Business and Financial Institutions
2	01/29	(S)	Title Suff Do Pass Comm Sub
3	02/07	(S)	Committee Substitute Adopted
4	02/07	(S)	Passed {Vote}
5	02/08	(S)	Transmitted To House
6	02/20	(H)	Referred To Banking and Financial Services
7	02/26	(H)	Title Suff Do Pass
8	02/28	(H)	Tabled Subject To Call
9	03/01	(H)	Passed {Vote}
10	03/04	(H)	Transmitted To Senate
11	03/11	(S)	Enrolled Bill Signed
12	03/11	(H)	Enrolled Bill Signed
13	03/18		Approved by Governor

Code Section: R 081-0022-0001, R 081-0022-0003, R 081-0022-0005, R 081-0022-0007, R 081-0022-0009, R 081-0022-0011, R 081-0022-0013, R 081-0022-0015, R 081-0022-0017, R 081-0022-0019, R 081-0022-0021, R 081-0022-0023, R 081-0022-0025, R 081-0022-0027, R 081-0022-0028, A 081-0022-0031

----- Additional Information -----

Senate Committee: Business and Financial Institutions

House Committee: Banking and Financial Services

Principal Author: Fillingane

Title: AN ACT TO REENACT SECTIONS 81-22-1 THROUGH 81-22-28, MISSISSIPPI CODE OF 1972, WHICH CREATE THE MISSISSIPPI DEBT MANAGEMENT SERVICES ACT; TO AMEND SECTION 81-22-31, MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE OF REPEAL ON THE ACT; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Business and Financial Institutions

By: Senator(s) Fillingane

Senate Bill 2557

(As Sent to Governor)

AN ACT TO REENACT SECTIONS 81-22-1 THROUGH 81-22-28, MISSISSIPPI CODE OF 1972, WHICH CREATE THE MISSISSIPPI DEBT MANAGEMENT SERVICES ACT; TO AMEND SECTION 81-22-31, MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE OF REPEAL ON THE ACT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 81-22-1, Mississippi Code of 1972, is reenacted as follows:

81-22-1. This chapter may be known and cited as the "Mississippi Debt Management Services Act."

SECTION 2. Section 81-22-3, Mississippi Code of 1972, is reenacted as follows:

81-22-3. As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings:

(a) "Commissioner" means the Commissioner of Banking and Consumer Finance of the State of Mississippi.

(b) "Debt management service" means:

(i) The receiving of money from a consumer for the purpose of distributing one or more payments to or among one or more creditors of the consumer in full or partial payment of the consumer's obligation;

(ii) Arranging or assisting a consumer to arrange for the distribution of one or more payments to or among one or more creditors of the consumer in full or partial payment of the consumer's obligation;

(iii) Exercising control, directly or indirectly, or arranging for the exercise of control over funds of the consumer for the purpose of distributing payments to or among one or more creditors of the consumer;

(iv) Acting or offering to act as an intermediary between a consumer and one or more creditors of the consumer for the purpose of adjusting, compromising, negotiating, settling, discharging or otherwise deferring, reducing or altering the terms of payment of the consumer's obligation; or

(v) Improving or offering to improve a consumer's credit record, history or rating.

(c) "Debt management service provider" means a person that provides or offers to provide to a consumer in this state any debt management services, in return for a fee or other consideration. "Debt management service provider" does not include:

(i) Those situations involving debt adjusting incurred incidentally in the lawful practice of law in this state;

(ii) Those situations involving credit report error correction services and situations covered under paragraph (b) (v) of this section when performed in the lawful practice of law in this state;

(iii) Title insurers who adjust debts out of escrow funds only incidentally in the regular course of their principal business;

(iv) Judicial officers or others acting under court orders;

(v) Those situations involving debt adjusting incurred incidentally in connection with the lawful practice as a certified public accountant;

(vi) Bona fide trade or mercantile associations in the course of arranging adjustment of debts with business establishments;

(vii) Employers who adjust debts for their employees;

(viii) Any person who, at the request of a debtor, makes a loan to the debtor, and who, at the authorization of the debtor, acts as an adjuster of the debtor's debts solely in the disbursement of the proceeds of the loan, without compensation for the services rendered in adjusting the debts;

(ix) Any institution that is regulated, supervised or licensed by the department or any out-of-state institution

that is insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration; or

(x) Licensed attorneys engaged in the lawful practice of law.

(d) "Department" means the Department of Banking and Consumer Finance of the State of Mississippi.

(e) "Fair share contribution" means voluntary contributions paid to the licensee by the creditor for collecting funds from clients pursuant to debt management services.

(f) "Licensee" means a person or entity who is required to be licensed as a debt management service provider.

(g) "Person" means an individual or an organization.

(h) "Records" or "documents" means any item in hard copy or produced in a format of storage commonly described as electronic, imaged, magnetic, microphotographic or otherwise, and any reproduction so made shall have the same force and effect as the original thereof and be admitted in evidence equally with the original.

(i) "Third-party payment processor" means any entity that holds, or has access to, or can effectuate possession of, by any means, the monies of a licensee's debtors, or distributes, or is in the chain or distribution of such monies, to the creditors of such debtors, pursuant to an agreement or contract with the licensee. This term shall not include entities that solely provide the electronic routing and settlement of financial transactions and their sponsoring banks.

SECTION 3. Section 81-22-5, Mississippi Code of 1972, is reenacted as follows:

81-22-5. (1) **Licensure and relicensure.** No person or entity may act as a debt management service provider with respect to consumers who are residents of this state without a license issued under this chapter. The license application must be in a form prescribed by the commissioner. The commissioner may refuse the application if it contains erroneous or incomplete information. A license may not be issued unless the commissioner, upon investigation, finds that the financial soundness and responsibility, insurance coverage, consumer education programs and services component, character and

fitness of the applicant and, when applicable, its partners, officers or directors, warrant belief that the business will be operated honestly and fairly within the purposes of this chapter. Each license shall remain in full force and effect until relinquished, suspended, revoked or expired. With each initial application for a license, the applicant shall pay to the commissioner a license fee of Seven Hundred Fifty Dollars (\$750.00), and on or before December 31 of each year thereafter, an annual renewal fee of Four Hundred Seventy-five Dollars (\$475.00). If the annual renewal fee remains unpaid after December 31, the license shall expire. If any person engages in business as provided for in this chapter without paying the license fee provided for in this subsection before beginning business or before the expiration of the person's current license, as the case may be, then the person shall be liable for the full amount of the license fee, plus a penalty in an amount not to exceed Twenty-five Dollars (\$25.00) for each day that the person has engaged in such business without a license or after the expiration of a license. All licensing fees and penalties shall be paid into the Consumer Finance Fund of the department.

(2) **Action on registration application.** The commissioner shall take action on an application within thirty (30) days after the commissioner has accepted the application as complete. Upon written request, the applicant is entitled to a hearing on the question of the applicant's qualifications for license if the commissioner has notified the applicant in writing that the application has been denied or the commissioner has not issued a license within thirty (30) days after the application for the license was accepted as complete by the commissioner. A request for a hearing may not be made more than sixty (60) days after the application was accepted as complete or the commissioner has mailed a written notice to the applicant stating that the application has been denied and stating the reasons for the denial of the application.

SECTION 4. Section 81-22-7, Mississippi Code of 1972, is reenacted as follows:

81-22-7. To be eligible for a license, an applicant shall file with the commissioner a bond with good security in the penal sum of Fifty Thousand Dollars (\$50,000.00), payable to the State of Mississippi for the faithful performance by the licensee of the duties and obligations pertaining to the

business so licensed and the prompt payment of any judgment that may be recovered against the licensee on account of charges or other claims arising directly or collectively from any violation of the provisions of this chapter. The applicant may file, in lieu of the bond, cash, a certificate of deposit or government bonds in the amount of Fifty Thousand Dollars (\$50,000.00). Those deposits shall be filed with the commissioner and are subject to the same terms and conditions as are provided for in the surety bond required in this paragraph. Any interest or earnings on those deposits are payable to the depositor.

SECTION 5. Section 81-22-9, Mississippi Code of 1972, is reenacted as follows:

81-22-9. (1) **Funds deposited in escrow account.** The debt management service provider shall deposit, within two (2) business days of receipt, all funds received from or on behalf of a consumer for payment to a creditor or creditors in a federally insured escrow account for the benefit of the consumer in a supervised financial organization. Any escrow account established to receive consumer funds is free from trustee process and unavailable to creditors of the debt management service provider.

(2) **Requirements for handling of funds.** The debt management service provider shall:

(a) Maintain separate records of account for each consumer receiving debt management services;

(b) Remit funds received from or on behalf of a consumer to the consumer's creditor or creditors within fifteen (15) business days of receipt of the funds; and

(c) Correct or remedy any misdirected payments resulting from an error by the debt management service provider and reimburse the consumer for any actual costs or fees imposed by a creditor as a result of such misdirection.

(3) **Commingling of funds.** The debt management service provider may not commingle escrow accounts established for the benefit of consumers with any operating accounts of the debt management service provider.

SECTION 6. Section 81-22-11, Mississippi Code of 1972, is reenacted as follows:

81-22-11. (1) **Written agreement.** A debt management service provider may not perform debt management services for a consumer unless the consumer and the debt management service provider first have executed a written agreement with regard to the debt management services to be provided. A copy of the completed agreement must be given to the consumer.

(2) **Required provisions.** Each agreement between a consumer and a debt management service provider must be dated and signed by the consumer and must include the following:

(a) The name and address of the consumer and the debt management service provider;

(b) A full description of the services to be performed for the consumer, any fees to be charged to the consumer for those services and any contributions, fees or charges the consumer has agreed to make or pay to the debt management service provider;

(c) Disclosure of the existence of the surety bond on file with the commissioner under Section 81-22-7 and a notice that the consumer may contact the Department of Banking and Consumer Finance at P.O. Box 23729, Jackson, MS 39225-3729 or 1-800-844-2499 with any questions or complaints regarding the debt management service provider;

(d) The identification of the federally insured institution where funds remitted by a consumer for payment to one or more creditors will be held;

(e) The right of a party to cancel the agreement by providing a written notice of cancellation to the other party;

(f) A complete list of the consumer's obligations that are subject to the agreement and the names and addresses of the creditors holding those obligations;

(g) A full description and schedule of the periodic amounts to be remitted to the debt management service provider for payment to the consumer's creditor or creditors and the amounts to be remitted to each creditor;

(h) A notice to the consumer that by executing the agreement the consumer authorizes the federally insured institution to disclose financial records relating to the escrow account in which the consumer's funds are held under Section 81-22-9 to the commissioner during the course of any

examination of the debt management service provider by the commissioner; and

(i) The following notice:

NOTICE TO CONSUMER: Do not sign this agreement before you read it. You must be given a copy of this agreement.

SECTION 7. Section 81-22-13, Mississippi Code of 1972, is reenacted as follows:

81-22-13. A debt service management provider may only charge a consumer the following fees for providing debt management services:

(a) A maintenance fee not to exceed Thirty Dollars (\$30.00) per month after a consumer has received a free initial counseling session;

(b) A one-time setup fee not to exceed Seventy-five Dollars (\$75.00);

(c) A fee for obtaining the consumer's credit report not to exceed Fifteen Dollars (\$15.00) for an individual report or Twenty-five Dollars (\$25.00) for a joint report;

(d) A fee not to exceed Fifty Dollars (\$50.00) for educational courses/products that will assist the consumer in achieving financial stability. Products shall be educational in nature and may include, but not be limited to, the following topics: Home Buyer Education, Financial Literacy Education, and Credit Report Review. However, the consumer must be informed that those courses and products are not a mandatory condition to receive debt management services; and

(e) A bankruptcy consultation fee, not to exceed Fifty Dollars (\$50.00) per consumer, may be charged by nonprofit credit counseling agencies approved by the U.S. Trustees pursuant to 11 USC Section 111.

SECTION 8. Section 81-22-15, Mississippi Code of 1972, is reenacted as follows:

81-22-15. (1) **Written reports to consumers.** A debt management service provider shall provide to each consumer receiving debt management services periodic written reports accounting for funds received from the consumer for payment to the consumer's creditor or creditors whose obligations are listed in the consumer's agreement with the debt management service provider and disbursements made to each such creditor

on the consumer's behalf since the last report. The debt management service provider shall provide those reports to the consumer not less than once each calendar quarter.

(2) **Maintenance of records.** Any person required to be licensed under this chapter shall maintain in its offices, or such other location as the department permits, the books, accounts and records necessary for the department to determine whether or not the person is complying with the provisions of this chapter and the rules and regulations adopted by the department under this chapter. These books, accounts and records shall be maintained apart and separate from any other business in which the person is involved. A debt management service provider shall maintain books and records for each consumer for whom it provides debt management services for six (6) years following the final transaction with the consumer.

(3) **Verification of Payments to Creditors.** Licensees that participate in fair share contributions with creditors shall maintain records that reflect client accounts were credited for the full amount of any payments due and not the net amount as a result of a fair share contribution. Such records may consist of either a copy of the client's statement from the creditor or the licensee may send a monthly or quarterly statement to clients that reflect payments remitted to creditors.

(4) Within fifteen (15) days of the occurrence of any of the following events, a licensee shall file a written report with the commissioner describing the event and its expected impact on the activities on the licensee's business in this state:

(a) The filing for bankruptcy or reorganization by the licensee;

(b) The institution of revocation or suspension proceedings against the licensee by any state or governmental authority; or

(c) Any felony indictment or conviction of the licensee or any of its directors or principal officers.

SECTION 9. Section 81-22-17, Mississippi Code of 1972, is reenacted as follows:

81-22-17. The commissioner may exercise the following powers and functions:

(a) **Complaint investigation.** The commissioner may receive and act on complaints, take action to obtain voluntary

compliance with this chapter or refer cases to the Attorney General, who shall appear for and represent the commissioner in court.

(b) **Rules.** The commissioner may adopt reasonable administrative regulations, not inconsistent with law, for the enforcement of this chapter.

(c) **Examination of licensees.** To assure compliance with the provisions of this chapter, the department may examine the books and records of any licensee without notice during normal business hours. The commissioner shall charge the licensee an examination fee in an amount not less than Three Hundred Dollars (\$300.00) nor more than Six Hundred Dollars (\$600.00) for each office or location within the State of Mississippi, plus any actual expenses incurred while examining the licensee's records or books that are located outside the State of Mississippi. However, in no event shall a licensee be examined more than once in a two-year period unless for cause shown based upon consumer complaint and/or other exigent reasons as determined by the commissioner.

(d) **Examination of nonlicensees.** The department, its designated officers and employees, or its duly authorized representatives, for the purposes of discovering violations of this chapter and for the purpose of determining whether any person or individual reasonably suspected by the commissioner of conducting business that requires a license under this chapter, may investigate those persons and individuals and examine all relevant books, records and papers employed by those persons or individuals in the transaction of business, and may summon witnesses and examine them under oath concerning matters as to the business of those persons, or other such matters as may be relevant to the discovery of violations of this chapter, including, without limitation, the conduct of business without a license as required under this chapter.

SECTION 10. Section 81-22-19, Mississippi Code of 1972, is reenacted as follows:

81-22-19. A debt management service provider may not:

(a) **Purchase debt.** Purchase any debt or obligation of a consumer;

(b) **Lend money.** Lend money or provide credit to any consumer;

(c) **Mortgage interest.** Obtain a mortgage or other security interest in property of a consumer;

(d) **Debt collector.** Operate as a debt collector in this state; or

(e) **Negative amortization.** Structure an agreement for the consumer that, at the conclusion of the projected term for the consumer's participation in the debt management service agreement, would result in negative amortization of any of the consumer's obligations to creditors.

SECTION 11. Section 81-22-21, Mississippi Code of 1972, is reenacted as follows:

81-22-21. (1) **False advertising.** A debt management service provider may not engage in this state in false or misleading advertising concerning the terms and conditions of any services or assistance offered.

(2) **Required words.** A debt management service provider may not advertise its services in Mississippi in any media disseminated primarily in this state, whether print or electronic, without the words "Licensed Debt Management Service Provider."

(3) **Dissemination; no liability.** This section does not impose liability on the owner or personnel of any medium in which an advertisement appears or through which an advertisement is disseminated.

SECTION 12. Section 81-22-23, Mississippi Code of 1972, is reenacted as follows:

81-22-23. (1) **Violations; unfair, unconscionable or deceptive practices.** A debt management service provider that violates any provision of this chapter or any rule adopted by the commissioner, or that through any unfair, unconscionable or deceptive practice causes actual damage to a consumer is subject to enforcement action under subsection (2) of this section.

(2) **Enforcement actions.** The following enforcement actions may be taken by the commissioner or an aggrieved consumer against a debt management service provider for violations of any provision of this chapter or any rule adopted under this chapter, or for unfair, unconscionable or deceptive practices that cause actual damage to a consumer:

(a) When the commissioner has reasonable cause to believe that a person is violating any provision of this chapter, the commissioner, in addition to and without prejudice to the authority provided elsewhere in this chapter, may enter an order requiring the person to stop or to refrain from the violation. The commissioner may sue in any chancery court of the state having jurisdiction and venue to enjoin the person from engaging in or continuing the violation or from doing any act in furtherance of the violation. In such an action, the court may enter an order or judgment awarding a preliminary or permanent injunction;

(b) The commissioner may, after notice and hearing, impose a civil penalty against any licensee if the licensee, individual required to be registered, or employee is adjudged by the commissioner to be in violation of the provisions of this chapter. The civil penalty shall not exceed Five Hundred Dollars (\$500.00) per violation and shall be deposited into the Consumer Finance Fund of the department;

(c) The state may enforce its rights under the surety bond as required in Section 81-22-7 as an available remedy for the collection of any civil penalties, criminal fines or costs of investigation and/or prosecution incurred;

(d) A civil action by an aggrieved consumer in which that consumer has the right to recover actual damages from the debt management service provider in an amount determined by the court plus costs of the action together with reasonable attorney's fees; or

(e) Revocation, suspension or nonrenewal of the debt management service provider's license under Section 81-22-25.

SECTION 13. Section 81-22-25, Mississippi Code of 1972, is reenacted as follows:

81-22-25. (1) **Suspension or revocation.** After notice and hearing, the commissioner may suspend or revoke a debt management service provider's license if the commissioner finds that one of the conditions of subsection (2) of this section is met.

(2) **Conditions for suspension or revocation.** The following conditions are grounds for suspension or revocation of a registration:

(a) A fact or condition exists that, if it had existed at the time when the licensee applied for a license, would have been grounds for denying the application;

(b) The licensee knowingly violates a material provision of this chapter or rule or order validly adopted by the commissioner under authority of this chapter;

(c) The licensee is insolvent;

(d) The licensee refuses to permit the commissioner to make an examination authorized by this chapter; or

(e) The licensee fails to respond within a reasonable time and in an appropriate manner to communications from the commissioner.

SECTION 14. Section 81-22-27, Mississippi Code of 1972, is reenacted as follows:

81-22-27. The commissioner may employ the necessary full-time employees above the number of permanent full-time employees authorized for the department for the fiscal year 2003, to carry out and enforce the provisions of this chapter. The commissioner also may expend the necessary funds and equip and provide necessary travel expenses for those employees.

SECTION 15. Section 81-22-28, Mississippi Code of 1972, is reenacted as follows:

81-22-28. (1) If a licensee seeks to utilize a third-party payment processor, to hold, have access to, effectuate possession of, by any means, or to distribute or be in the chain of distribution of the monies of another licensee's consumers, the licensee shall give the Department of Banking and Consumer Finance ten (10) days' written notice.

(2) Such notice shall contain the name and address of the third-party payment processor, a description of the services, a copy of the agreement or contract between the licensee and the third-party payment processor and the highest daily amount of consumer funds to be held or transmitted. The third-party payment processor shall submit to the department, upon request, the highest daily amount held or transmitted during the previous month.

(3) Each third-party payment processor shall file with the commissioner a surety bond, issued by a bonding company or insurance company authorized to do business in the State of Mississippi, in the principal sum of Fifty Thousand Dollars

(\$50,000.00) and in an additional principal sum of Fifty Thousand Dollars (\$50,000.00) for each additional licensee it contracts with, but in no event shall the bond be required to be in excess of One Hundred Fifty Thousand Dollars (\$150,000.00). In lieu of the surety bond, a third-party payment processor may file other assets such as cash, a certificate of deposit or government bonds.

(4) A licensee shall not use a third-party payment processor until the licensee receives written notice from the department confirming that the department has received a surety bond or other assets from the third-party payment processor.

(5) Prior to performing any of its services, the third-party payment processor shall provide written authorization for the department to examine all books, records, documents and materials, including those maintained in electronic form, as they relate to the consumers' monies held by, or distributed by the third-party payment processor to the creditors of the consumers and shall have received written confirmation from the department that the written authorization is sufficient. The cost of the examination shall be paid by the licensee.

(6) All agreements or contracts between a licensee and a third-party payment processor shall provide for a thirty-day written notice of termination to the party against whom termination is being sought. A licensee shall immediately notify the department in writing of the notice of termination.

(7) In the event a licensee elects to maintain cash, a certificate of deposit or government bonds on deposit, and utilizes the services of a third-party payment processor, there is no requirement that the third-party payment processor obtain a surety bond or maintain other assets on deposit with the department.

SECTION 16. Section 81-22-31, Mississippi Code of 1972, is amended as follows:

81-22-31. Sections 81-22-1 through 81-22-28, Mississippi Code of 1972, shall stand repealed on July 1, * * * 2015.

SECTION 17. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

Senate Bill 2567

Description: Public Service Commission; extend repealer on its creation and ability to hire attorneys for certain proceedings.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Three/Fifths

Effective date: July 1, 2013

Chapter Number: 332

History of Actions:

- | | | |
|----|-------|----------------------------------|
| 1 | 01/21 | (S) Referred To Energy |
| 2 | 01/30 | (S) Title Suff Do Pass |
| 3 | 02/06 | (S) Passed {Vote} |
| 4 | 02/07 | (S) Transmitted To House |
| 5 | 02/21 | (H) Referred To Public Utilities |
| 6 | 02/27 | (H) Title Suff Do Pass |
| 7 | 02/28 | (H) Passed {Vote} |
| 8 | 03/01 | (H) Transmitted To Senate |
| 9 | 03/06 | (S) Enrolled Bill Signed |
| 10 | 03/06 | (H) Enrolled Bill Signed |
| 11 | 03/12 | Approved by Governor |

Code Section: R 077-0001-0001, R 077-0001-0003, R 077-0001-0005, R 077-0001-0006, R 077-0001-0011, R 077-0001-0015, R 077-0001-0017, R 077-0001-0019, R 077-0001-0021, R 077-0001-0025, R 077-0001-0027, R 077-0001-0029, R 077-0001-0031, R 077-0001-0033, R 077-0001-0037, R 077-0001-0039, R 077-0001-0041, R 077-0001-0043, R 077-0001-0047, R 077-0001-0049, A 077-0001-0051, A 077-0001-0055, R 077-0001-0035

----- **Additional Information** -----

Senate Committee: Energy

House Committee: Public Utilities

Principal Author: Burton

Title: AN ACT TO REENACT SECTIONS 77-1-1, 77-1-3, 77-1-5, 77-1-6, 77-1-11, 77-1-15, 77-1-17, 77-1-19, 77-1-21, 77-1-25, 77-1-27, 77-1-29, 77-1-31, 77-1-33, 77-1-35,

77-1-37, 77-1-39, 77-1-41, 77-1-43, 77-1-47 AND 77-1-49, MISSISSIPPI CODE OF 1972, WHICH CREATE THE PUBLIC SERVICE COMMISSION AND PRESCRIBE ITS POWERS AND DUTIES; TO AMEND SECTION 77-1-51, MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE OF REPEAL ON THOSE SECTIONS FROM JULY 1, 2013, TO JULY 1, 2016; TO AMEND SECTION 77-1-55, MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE OF REPEAL FROM JULY 1, 2013, TO JULY 1, 2016, ON THIS SECTION WHICH AUTHORIZES THE COMMISSION AND THE PUBLIC UTILITIES STAFF TO HIRE ATTORNEYS AND CONSULTANTS FOR CERTAIN PROCEEDINGS; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Energy

By: Senator(s) Burton

Senate Bill 2567

(As Sent to Governor)

AN ACT TO REENACT SECTIONS 77-1-1, 77-1-3, 77-1-5, 77-1-6, 77-1-11, 77-1-15, 77-1-17, 77-1-19, 77-1-21, 77-1-25, 77-1-27, 77-1-29, 77-1-31, 77-1-33, 77-1-35, 77-1-37, 77-1-39, 77-1-41, 77-1-43, 77-1-47 AND 77-1-49, MISSISSIPPI CODE OF 1972, WHICH CREATE THE PUBLIC SERVICE COMMISSION AND PRESCRIBE ITS POWERS AND DUTIES; TO AMEND SECTION 77-1-51, MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE OF REPEAL ON THOSE SECTIONS FROM JULY 1, 2013, TO JULY 1, 2016; TO AMEND SECTION 77-1-55, MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE OF REPEAL FROM JULY 1, 2013, TO JULY 1, 2016, ON THIS SECTION WHICH AUTHORIZES THE COMMISSION AND THE PUBLIC UTILITIES STAFF TO HIRE ATTORNEYS AND CONSULTANTS FOR CERTAIN PROCEEDINGS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 77-1-1, Mississippi Code of 1972, is reenacted as follows:

77-1-1. A public service commission, hereinafter referred to in this chapter as the commission, is hereby created, consisting of three (3) members, one (1) to be elected from each of the three (3) Supreme Court districts by the qualified electors of such district. Elections for such officers shall be held in the general election in November 1959, and every four (4) years thereafter, and the terms of office of the three (3) commissioners elected at the general election in November 1959 shall expire on December 31, 1963.

The commissioners shall each receive a yearly salary fixed by the Legislature, payable monthly.

The commissioners shall each possess the qualifications prescribed for the Secretary of State. The commissioners shall not operate, own any stock in, or be in the employment of any common or contract carrier by motor vehicle, telephone company, gas or electric utility company, or any other

public utility that shall come under their jurisdiction or supervision.

SECTION 2. Section 77-1-3, Mississippi Code of 1972, is reenacted as follows:

77-1-3. The commission shall have a seal, having around the margin the words "Mississippi Public Service Commission," and in the center such device as it may select. The acts of the commission shall be authenticated by its seal.

SECTION 3. Section 77-1-5, Mississippi Code of 1972, is reenacted as follows:

77-1-5. The commission shall keep an office in the City of Jackson, which shall be kept open Monday through Friday of each week for eight (8) hours each day. The commission shall meet at its office on the first Tuesday of each month and at such other times and places as its duties may require. The commission may sit from day to day and from time to time, and any meeting may be pretermitted not exceeding two (2) in any year.

The members of the commission shall devote their entire time to the performance of their official duties on every business day, except on the legal holidays enumerated in Section 3-3-7, Mississippi Code of 1972. However, official acts of the commission done on legal holidays shall be valid.

The commission shall keep regular minutes of its proceedings, which shall be a public record, and all orders, findings and acts of the commission shall be entered on the minutes.

Two (2) members of the commission shall be a quorum.

SECTION 4. Section 77-1-6, Mississippi Code of 1972, is reenacted as follows:

77-1-6. There is hereby established in the State Treasury a special fund to be known as the "Public Service Commission Regulation Fund." Such fund shall be the sole fund of the commission for all monies collected and deposited to the credit of or appropriated to the commission. The fund shall be administered as provided in this title and shall be audited annually by the State Auditor.

SECTION 5. Section 77-1-11, Mississippi Code of 1972, is reenacted as follows:

77-1-11. (1) It shall be unlawful for any public service commissioner, any candidate for public service commissioner, or any employee of the Public Service Commission or Public Utilities Staff to knowingly accept any gift, pass, money, campaign contribution or any emolument or other pecuniary benefit whatsoever, either directly or indirectly, from any person interested as owner, agent or representative, or from any person acting in any respect for such owner, agent or representative of any common or contract carrier by motor vehicle, telephone company, gas or electric utility company, or any other public utility that shall come under the jurisdiction or supervision of the Public Service Commission. Any person found guilty of violating the provisions of this subsection shall immediately forfeit his or her office or position and shall be fined not less than Five Thousand Dollars (\$5,000.00), imprisoned in the State Penitentiary for not less than one (1) year, or both.

(2) It shall be unlawful for any person interested as owner, agent or representative, or any person acting in any respect for such owner, agent or representative of any common or contract carrier by motor vehicle, telephone company, gas or electric utility, or any other public utility that shall come under the jurisdiction or supervision of the Public Service Commission to offer any gift, pass, money, campaign contribution or any emolument or other pecuniary benefit whatsoever to any public service commissioner, any candidate for public service commissioner or any employee of the Public Service Commission or Public Utilities Staff. Any party found guilty of violating the provisions of this subsection shall be fined not less than Five Thousand Dollars (\$5,000.00), or imprisoned in the State Penitentiary for not less than one (1) year, or both.

(3) For purposes of this section the term "emolument" shall include salary, donations, contributions, loans, stock tips, vacations, trips, honorarium, directorships or consulting posts. Expenses associated with social occasions afforded public servants shall not be deemed a gift, emolument or other pecuniary benefit as defined in Section 25-4-103(k), Mississippi Code of 1972.

(4) For purposes of this section, a person who is a member of a water, gas, electric or other cooperative association regulated by the Public Service Commission shall not, by

virtue of such membership, be deemed an owner, agent or representative of such association unless such person is acting in any respect for or as an owner, agent or representative of such association; nor shall a person who owns less than one-half of one percent ($1/2$ of 1%) in stock, the value thereof not to exceed Ten Thousand Dollars (\$10,000.00), of any public utility that is regulated by the Public Service Commission, or of any holding company of such public utility, by virtue of such ownership, be deemed an owner, agent or representative of such public utility unless such person is acting in any respect for or as an owner, agent or representative of such public utility.

SECTION 6. Section 77-1-15, Mississippi Code of 1972, is reenacted as follows:

77-1-15. (1) There shall be an executive secretary of the commission, hereinafter referred to in this chapter as the secretary, to be appointed by the commission, by and with the advice and consent of the Senate, for the term of the commissioners. The secretary must have the same qualifications as the commissioners and shall be subject to the same disqualifications and to like penalties, except that he shall not be liable to impeachment. He shall receive a salary fixed by the Legislature. He shall take the oath of office and shall be removable at the pleasure of the commission, which may fill any vacancy until the Senate confirms a successor. The secretary shall make bond as provided for other state officers, in the sum of Ten Thousand Dollars (\$10,000.00), conditioned upon the faithful performance of the duties of his office.

(2) The secretary shall collect all fees and penalties collected by or paid to the commission, and shall cover the same into the State Treasury; and all fees and penalties collected under the Mississippi Motor Carrier Regulatory Law of 1938 shall be covered into the Public Service Commission Regulation Fund.

(3) The secretary of the commission shall be the custodian of all records, documents, and the seal of the commission. He shall issue all citations, subpoenas and other rightful orders and documents, and perform all other duties usually required of such officer, and as required by the commission.

(4) It shall be the duty and responsibility of the secretary to supervise and manage the offices and staff of the Public Service Commission and formulate written policies and

procedures for the effective and efficient operation of the office and present these policies and procedures to the board for promulgation.

SECTION 7. Section 77-1-17, Mississippi Code of 1972, is reenacted as follows:

77-1-17. The commission is hereby authorized to employ for the term of the commissioners a competent rate expert at a salary fixed by the commission, and an assistant rate expert at a salary fixed by the commission, for the collection of data and evidence for the use of the state in protecting the interest of the state involving duties and obligations of all common carriers, all common carriers by motor vehicle, all restricted common carriers by motor vehicle, and all contract carriers by motor vehicle, and for the establishment of proof in litigation now pending or which may hereafter be instituted.

The rate expert and his assistant shall make all needed investigations affecting rates and rate making and shall perform such other duties as the commission may find necessary for them to do in the interest of the state.

Said duties shall also include the checking and investigating of the filing of rate schedules with the commission, and making of reports to the commission respecting tariffs filed by any of the above-mentioned carriers with the commission involving the increase of any rates for movements within the State of Mississippi, and the general checking and reports to the commission affecting any rates increased from points without the State of Mississippi to points within the State of Mississippi, and from points in the State of Mississippi to points without the State of Mississippi. Said rate experts may be discharged by the commission for incompetency or other good cause, but they shall have notice and an opportunity to be heard in respect to any charge for removal.

SECTION 8. Section 77-1-19, Mississippi Code of 1972, is reenacted as follows:

77-1-19. The commission is authorized to employ the following additional employees to carry out and enforce the provisions of the Motor Carrier Regulatory Law of 1938:

- (a) An assistant secretary and two (2) stenographer-clerks;
- (b) One (1) combined bookkeeper and stenographer;

(c) One (1) stenographer competent to serve as a reporter of evidence taken before the commission; and

(d) Twelve (12) additional employees, which includes seven (7) employees to be transferred from the utility department to the motor carrier department to perform the duties of the commission imposed upon it by the provisions of said Motor Carrier Regulatory Law.

SECTION 9. Section 77-1-21, Mississippi Code of 1972, is reenacted as follows:

77-1-21. (1) For the purpose of enforcing the provisions of the Mississippi Motor Carrier Regulatory Law of 1938, the Mississippi Department of Transportation is authorized to employ, in addition to personnel already employed by the department, one (1) chief enforcement officer and twenty-one (21) inspectors, who shall be under the management of the department. The chief enforcement officer and the inspectors shall devote their full time to the performance of their duties and shall take an oath faithfully to perform the duties of their position. The department shall require bonds to be carried on such employees as the department may deem necessary, the cost thereof to be paid by the department. The chief enforcement officer and inspectors shall be qualified by experience and training in law enforcement or investigative work, and shall attend and satisfactorily complete an appropriate course of instruction established by the Commissioner of Public Safety at the Law Enforcement Officers Training Academy. The chief enforcement officer and the inspectors referred to in this section shall be selected after an examination as to physical and mental fitness. Such employees shall be citizens of the United States and the State of Mississippi, and of good moral character. All such members of staff shall be appointed by the Mississippi Department of Transportation and shall be subject to removal at any time by the department.

(2) The Public Service Commission shall transfer all employees, equipment, inventory and resources of the commission employed and used to enforce the Motor Carrier Regulatory Law of 1938 to the Mississippi Department of Transportation on July 1, 2004. The transfer of personnel shall be commensurate with the number and classification of positions allocated to that law enforcement. The transfer also shall include direct support, clerical, data processing and communications positions allocated to that law enforcement.

(3) The Public Service Commission shall transfer to the Mississippi Department of Transportation each year the amount of funds necessary to support the law enforcement functions being performed for the commission by the department, as specified in the appropriation bill for the Public Service Commission.

(4) Any reference in any statute, rule or regulation to law enforcement duties being performed by the Public Service Commission shall be construed to mean law enforcement duties being performed for the commission by the Mississippi Department of Transportation.

SECTION 10. Section 77-1-25, Mississippi Code of 1972, is reenacted as follows:

77-1-25. No member of the staff of the commission, or any other person, shall use uniforms, material, or equipment of the commission for private or political purposes. Members of the staff of the commission may be candidates for political office but must take a leave of absence to do so. Members of the staff of the commission may take part in political campaigns other than campaigns for Public Service Commission but may not solicit or receive campaign contributions from regulated utilities. Anyone violating the provisions of this section shall be guilty of a misdemeanor and, upon conviction, shall be punished as provided by law and shall be dismissed from the staff of the commission.

SECTION 11. Section 77-1-27, Mississippi Code of 1972, is reenacted as follows:

77-1-27. All commission employees provided for in this chapter, and the reasonable and necessary expenses of the administration of the duties imposed on the commission by the Motor Carrier Regulatory Law of 1938, shall be paid out of the appropriations made to defray the expenses of the commission, upon requisitions and warrants in the same manner provided by law for the disbursements of appropriations for the commission. An itemized account shall be kept of all receipts and expenditures and shall be reported to the Legislature by the commission.

SECTION 12. Section 77-1-29, Mississippi Code of 1972, is reenacted as follows:

77-1-29. On or before the twentieth day of each calendar month, the commission shall pay into the State Treasury to the

account of the "Public Service Commission Regulation Fund" all monies collected by it during the preceding calendar month, showing from whom collected, when collected and for what purposes collected. All disbursements made by the commission or from the regulation fund for any purposes, other than for salaries provided by law, shall be supported by a detailed and itemized statement approved by the commission for commission disbursements. The commission shall not expend funds from the "Public Service Commission Regulation Fund" to employ personnel whose services would duplicate services provided by any employee of the Public Utilities Staff.

SECTION 13. Section 77-1-31, Mississippi Code of 1972, is reenacted as follows:

77-1-31. The commission shall keep a docket of petitions and complaints, which shall be entered in regular order. The docket shall be called at each regular meeting of the board, and the cases thereon disposed of, or, if necessary, continued until the next meeting.

SECTION 14. Section 77-1-33, Mississippi Code of 1972, is reenacted as follows:

77-1-33. In any matter of inquiry pending before the commission or any member thereof, subpoenas for witnesses, and subpoenas duces tecum, may be issued by the secretary, under seal, or by any member without the seal, and shall be executed and returned by any sheriff, constable, or marshal, under the like penalties of law for failure to execute and return the process of the circuit court. If any person duly summoned to appear and testify before the commission, or before any one or more of the commissioners, shall fail or refuse to appear and testify, or to bring and produce, as commanded, any book, paper, or document, without a lawful excuse, or shall refuse to answer any proper question propounded to him by the commission or any of the commissioners, or if any person shall obstruct the commission, or one or more of the commissioners in the discharge of duty, or shall conduct himself in a rude, disrespectful, or disorderly manner before the commission deliberating in the discharge of duty, such witness or person shall be guilty of a misdemeanor, and, upon conviction, shall be fined not more than One Thousand Dollars (\$1,000.00), or be imprisoned in the county jail for a period not exceeding six (6) months, or both.

SECTION 15. Section 77-1-35, Mississippi Code of 1972, is reenacted as follows:

77-1-35. The several members of the commission and the secretary may, in the discharge of their duties, administer oaths and take affidavits. The commission and each member thereof may examine witnesses under oath in all matters coming before them. If any person shall testify falsely, or make any false affidavit or oath before the commission, or before any of the commissioners, or before any officer, to any matter coming before the commission, he shall be guilty of perjury, and, upon conviction, shall be punished according to law.

SECTION 16. Section 77-1-37, Mississippi Code of 1972, is reenacted as follows:

77-1-37. Witnesses summoned to appear before the commission shall be entitled to the same per diem and mileage as witnesses attending the circuit court. Witnesses summoned by the commission on its behalf shall be paid as are other expenditures of the commission, upon the certificate of the commission showing the amount to which such witness may be entitled. Witnesses summoned for any carrier shall be paid by it.

SECTION 17. Section 77-1-39, Mississippi Code of 1972, is reenacted as follows:

77-1-39. In all cases where the testimony of witnesses is given orally before the commission any interested party or the commission shall have the right to have said testimony taken down and transcribed by a stenographer or court reporter, who is not an employee of the commission, to be agreed upon by the parties or appointed by the commission. The stenographer or court reporter so employed shall be duly sworn and his or her certificate that the transcript of such evidence is correct together with the official certificate of any one (1) of the commissioners that he has read the same and that it is in his opinion correct shall entitle such transcript or a certified copy thereof to be received in evidence on any appeal or in any court in this state subject only to any objection that the same is not relevant or material. The stenographer or court reporter shall be paid in accordance with the provisions of Section 9-13-33. The commission shall have the right to require any party demanding an official stenographer to guarantee or prepay the costs thereof in all proper cases.

SECTION 18. Section 77-1-41, Mississippi Code of 1972, is reenacted as follows:

77-1-41. All findings of the commission and the determination of every matter by it shall be made in writing and placed upon its minutes. Proof thereof shall be made by a copy of the same duly certified by the secretary under the seal of the commission. Whenever any matter has been determined by the commission, in the course of any proceeding before it the fact of such determination, duly certified, shall be received in all courts and by every officer in civil cases as prima facie evidence that such determination was right and proper. The record of the proceedings of the commission shall be deemed a public record, and shall at all reasonable times be subject to the inspection of the public.

SECTION 19. Section 77-1-43, Mississippi Code of 1972, is reenacted as follows:

77-1-43. (1) The commission may apply to the circuit or chancery court, by proper proceeding, for aid in the enforcement of obedience to its process, and to compel compliance with the law and its lawful orders, decisions, and determinations. Said courts shall have jurisdiction to grant aid and relief in such cases, subject to the right of appeal to the Supreme Court by the party aggrieved. The Attorney General, or district attorney in his district, shall institute such proceedings in the name of the commission.

(2) Any action for violation of the law, or for the violation of any lawful rule, regulation or order of the commission may be instituted by the commission or by the Attorney General in any court of competent jurisdiction.

(3) The remedies given by this chapter against all carriers under the supervision of the commission, are cumulative to those now in existence by law.

SECTION 20. Section 77-1-47, Mississippi Code of 1972, is reenacted as follows:

77-1-47. Appeals from any final finding, order or judgment of the commission shall be taken and perfected by the filing of a bond in the sum of Five Hundred Dollars (\$500.00) with two (2) sureties, or with a surety company qualified to do business in Mississippi as the surety, conditioned to pay the cost of such appeal. Said bond shall be approved by the chairman or secretary of the commission, or by the judge of the court to

which such appeal is taken in case the chairman or secretary of the commission refuses to approve a proper bond tendered to them within the time limited for taking appeals. The commission may grant a supersedeas bond on any appeal, in such penalty and with such surety thereon as it may deem sufficient, and may, during the pendency of any appeal, at any time, require the increase of any such supersedeas bond or additional securities thereon. The judge of the Circuit Court of Hinds County may on petition therefor by any party entitled to an appeal, presented to him within six (6) months of the date of the final finding, order, or judgment of the commission appealed from, award a writ of supersedeas to any such final finding, order, or judgment of the commission, upon the filing of a supersedeas bond in an amount to be fixed by said judge. All appeal bonds for the payment of costs, and all supersedeas bonds, shall be made payable to the state and may be enforced in the name of the state by motion or other legal proceedings or remedy in any circuit court of this state having jurisdiction of a motion or action on such bond, and the process and proceedings thereon shall be as provided by law upon bonds of like character required and taken by any court of this state. Such circuit court may render and enter like judgments upon such bonds as may, by law, be rendered and entered upon bonds of like character, and process of execution shall issue upon such judgments, and may be levied and executed as provided by law in other cases.

SECTION 21. Section 77-1-49, Mississippi Code of 1972, is reenacted as follows:

77-1-49. The commission shall make a report every year to the Legislature of all its acts and doings for the preceding fiscal year.

SECTION 22. Section 77-1-51, Mississippi Code of 1972, is amended as follows:

77-1-51. Sections 77-1-1 through 77-1-49, Mississippi Code of 1972, which create the Public Service Commission and prescribe its powers and duties, shall stand repealed as of December 31, * * * 2016.

SECTION 23. Section 77-1-55, Mississippi Code of 1972, is amended as follows:

77-1-55. (1) The Public Service Commission, with the aid and the assistance of the Public Utilities Staff, shall

have the power to monitor, investigate, and seek relief in any appropriate federal forum from all existing or proposed interstate rates, charges, allocations and classifications, and all rules and practices in relation thereto promulgated and prescribed by or for any public utility as defined in Section 77-3-3(d) (i).

(2) The Public Service Commission, with the aid and the assistance of the Public Utilities Staff, may seek relief from any proposed or final decision, order, regulation, rule or law that has an impact on any existing or proposed interstate rate, charge, allocation or classification.

(3) For the purpose of this section, the Public Service Commission and the Executive Director of the Public Utilities Staff may each enter into professional services contracts with one or more attorneys or consultants from a competent, qualified and independent firm as may be required by the commission or the executive director. Costs associated with the professional service contracts shall not exceed One Million Five Hundred Thousand Dollars (\$1,500,000.00) for each agency with respect to each rate regulated affected utility in any twelve-month period. The consultants or counsel shall submit periodically, but no less frequently than once each calendar quarter, to the executive director or the commission, as applicable, for approval of payment, itemized bills detailing the work performed. The executive director or the chairman of the commission, as applicable, shall requisition the applicable public utility to make the requisite payments to such consultants. The commission shall allow the utility to recover both the total costs the utility incurred under this section and the carrying charges for those costs through a rate rider established to recover the costs incurred and carrying charges incurred. Such rider shall include a true-up provision to ensure actual recovery of costs paid or otherwise incurred by the utility.

(4) This section shall stand repealed from and after July 1, * * * 2016.

SECTION 24. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

Senate Bill 2572

Description: Memorial highways; designate the Gluckstadt interchange on I-55 in Madison County as the “Adam Lee Weisenberger Memorial Interchange.”

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2013

Chapter Number: 393

History of Actions:

- | | | | |
|----|-------|-----|---|
| 1 | 01/21 | (S) | Referred To Highways and Transportation |
| 2 | 02/04 | (S) | Title Suff Do Pass |
| 3 | 02/06 | (S) | Passed {Vote} |
| 4 | 02/07 | (S) | Transmitted To House |
| 5 | 02/21 | (H) | Referred To Transportation |
| 6 | 03/05 | (H) | Title Suff Do Pass |
| 7 | 03/12 | (H) | Passed {Vote} |
| 8 | 03/13 | (H) | Transmitted To Senate |
| 9 | 03/14 | (S) | Enrolled Bill Signed |
| 10 | 03/14 | (H) | Enrolled Bill Signed |
| 11 | 03/20 | | Approved by Governor |

----- **Additional Information** -----

Senate Committee: Highways and Transportation

House Committee: Transportation

Principal Author: Longwitz

Additional Authors: Clarke

Title: AN ACT TO DESIGNATE THE GLUCKSTADT INTERCHANGE ON INTERSTATE 55 IN MADISON COUNTY, MISSISSIPPI AS THE “ADAM LEE WEISENBERGER MEMORIAL INTERCHANGE”; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI SB 2572

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Highways and Transportation

By: Senator(s) Longwitz, Clarke

Senate Bill 2572

(As Sent to Governor)

AN ACT TO DESIGNATE THE GLUCKSTADT INTERCHANGE ON INTERSTATE 55 IN MADISON COUNTY, MISSISSIPPI AS THE "ADAM LEE WEISENBERGER MEMORIAL INTERCHANGE"; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. (1) The Gluckstadt interchange on Interstate 55 in Madison County, Mississippi, is designated and shall be known as the "Adam Lee Weisenberger Memorial Interchange."

(2) The Mississippi Department of Transportation shall erect and maintain appropriate signs along and approaching the highway.

SECTION 2. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

Senate Bill 2613

Description: Scenic byways; designate certain scenic byways in Madison County.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: Passage

Chapter Number: 312

History of Actions:

1	01/21	(S)	Referred To Highways and Transportation
2	02/05	(S)	Title Suff Do Pass
3	02/13	(S)	Passed {Vote}
4	02/14	(S)	Transmitted To House
5	02/21	(H)	Referred To Transportation
6	02/27	(H)	Title Suff Do Pass
7	02/28	(H)	Passed {Vote}
8	03/01	(H)	Transmitted To Senate
9	03/05	(S)	Enrolled Bill Signed
10	03/05	(H)	Enrolled Bill Signed
11	03/07		Approved by Governor

----- Additional Information -----

Senate Committee: Highways and Transportation

House Committee: Transportation

Principal Author: Longwitz

Title: AN ACT TO DESIGNATE CERTAIN SEGMENTS OF HIGHWAYS IN MADISON COUNTY AS AN OFFICIAL MISSISSIPPI SCENIC BYWAY TO BE KNOWN AS THE "GATEWAY TO HISTORY"; TO DESIGNATE SEGMENTS OF HIGHWAYS EXISTING IN THE CITIES OF MADISON AND CANTON, AND THE TOWN OF FLORA, AS THE "GATEWAY TO HISTORY"; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI SB 2613

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Highways and Transportation

By: Senator(s) Longwitz

Senate Bill 2613

(As Sent to Governor)

AN ACT TO DESIGNATE CERTAIN SEGMENTS OF HIGHWAYS IN MADISON COUNTY AS AN OFFICIAL MISSISSIPPI SCENIC BYWAY TO BE KNOWN AS THE "GATEWAY TO HISTORY"; TO DESIGNATE SEGMENTS OF HIGHWAYS EXISTING IN THE CITIES OF MADISON AND CANTON, AND THE TOWN OF FLORA, AS THE "GATEWAY TO HISTORY"; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. The following highways located in the State of Mississippi are hereby designated as an official Mississippi Scenic byway to be known as the "Gateway to History," pursuant to Section 65-41-1 et seq., Mississippi Code of 1972:

(a) Segment 1: Beginning at the intersection of Highway 463 and Reunion Parkway and traveling north along Highway 463 for four and eight-tenths (4.8) miles to the intersection of Highway 22.

(b) Segment 2: Begin at the corner of Highway 463 and Highway 22 and continue west for eight and seven-tenths (8.7) miles to the Petrified Forest in the Town of Flora.

(c) Segment 3: Begin at the corner of Highway 463 and Highway 22 and continue east for twelve and three-tenths (12.3) miles to the City of Canton. The roadway changes to four-lane for one and four-tenths (1.4) miles surrounding the I-55 Canton interchange which is excluded and resumes for one and four-tenths (1.4) miles to the City of Canton.

(d) Segment 4: Begin at the intersection of Highway 51 and Highway 22 in Canton and travel for one and seven-tenths (1.7) miles. At the intersection of Highway 16 (Highway 22 becomes Highway 16) turn right on Highway 43 and travel for six and seven-tenths (6.7) miles to the Natchez Trace.

SECTION 2. This act shall take effect and be in force from and after its passage.

Mississippi Legislature

2013 Regular Session

Senate Bill 2631

Description: Domestic Violence Task Force; create.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: Passage

Chapter Number: 395

History of Actions:

1	01/21	(S)	Referred To Judiciary, Division B
2	02/05	(S)	Title Suff Do Pass Comm Sub
3	02/13	(S)	Committee Substitute Adopted
4	02/13	(S)	Amended
5	02/13	(S)	Passed As Amended {Vote}
6	02/15	(S)	Transmitted To House
7	02/20	(H)	Referred To Judiciary B
8	03/04	(H)	Title Suff Do Pass
9	03/05	(H)	Read the Third Time
10	03/12	(H)	Passed {Vote}
11	03/13	(H)	Transmitted To Senate
12	03/14	(S)	Enrolled Bill Signed
13	03/14	(H)	Enrolled Bill Signed
14	03/20		Approved by Governor

Amendments:

[S] Amendment No 1 (Cmte Sub)*Adopted* Voice Vote

----- **Additional Information** -----

Senate Committee: Judiciary, Division B

House Committee: Judiciary B

Principal Author: Sojourner

Additional Authors: Burton, Simmons (12th)

Title: AN ACT TO CREATE THE DOMESTIC VIOLENCE TASK FORCE; TO PROVIDE FOR THE MEMBERSHIP OF THE TASK FORCE; TO PROVIDE FOR THE

ELECTION OF A CHAIRMAN; TO PROVIDE FOR A QUORUM; TO PROVIDE FOR THE DUTIES AND RESPONSIBILITIES OF THE TASK FORCE; TO PROVIDE THAT THE JOINT LEGISLATIVE COMMITTEE ON PERFORMANCE EVALUATION AND EXPENDITURE REVIEW SHALL PROVIDE SUPPORT TO THE TASK FORCE; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI SB 2631

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Judiciary, Division B

By: Senator(s) Sojourner, Burton, Simmons (12th)

Senate Bill 2631

(As Sent to Governor)

AN ACT TO CREATE THE DOMESTIC VIOLENCE TASK FORCE; TO PROVIDE FOR THE MEMBERSHIP OF THE TASK FORCE; TO PROVIDE FOR THE ELECTION OF A CHAIRMAN; TO PROVIDE FOR A QUORUM; TO PROVIDE FOR THE DUTIES AND RESPONSIBILITIES OF THE TASK FORCE; TO PROVIDE THAT THE JOINT LEGISLATIVE COMMITTEE ON PERFORMANCE EVALUATION AND EXPENDITURE REVIEW SHALL PROVIDE SUPPORT TO THE TASK FORCE; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. (1) There is established the Domestic Violence Task Force, which will be made up of not more than twenty-six (26) members as follows:

(a) The Governor shall appoint the following appointees who shall possess a practicing knowledge of domestic violence as follows:

(i) Four (4) executive directors of domestic violence shelters representing the geographical divisions of the Delta, South, Central and North Mississippi;

(ii) Two (2) batterer's intervention program managers;

(b) The Attorney General, or his designee;

(c) The State Auditor, or his designee;

(d) The Executive Director of Mississippi Association of Police Chiefs, or his designee;

(e) The Executive Director of the Mississippi Prosecutor's Association, or his designee;

(f) The Executive Director of the Mississippi Sheriff's Association, or his designee;

(g) The Executive Director of the Mississippi Judicial College, or his or her designee;

(h) A practicing member of the Mississippi State Medical Association appointed by the Governor;

2013 GENERAL LAWS OF MISSISSIPPI SB 2631

(i) A seated or retired justice court judge appointed by the Governor;

(j) A seated or retired chancery court judge appointed by the Governor;

(k) A seated or retired municipal court judge appointed by the Governor;

(l) A seated or retired county court judge appointed by the Governor;

(m) One (1) licensed social worker appointed by the Governor;

(n) One (1) attorney with lobbying experience appointed by the Governor;

(o) Two (2) victims of domestic violence appointed by the Governor;

(p) One (1) practicing municipal prosecutor appointed by the Governor;

(q) One (1) member of the faith-based community to be appointed by the Governor;

(r) One (1) statistical expert appointed by the Governor;

(s) One (1) information technology professional appointed by the Governor; and

(t) The Director of the Mississippi Coalition Against Domestic Violence or her designee.

The members of the task force shall serve at the pleasure of their respective appointing authorities; ten (10) members shall constitute a quorum for the transaction of business. The members shall elect a chairman and committees whose duties shall be established by the task force.

(2) The Chairmen of the House Public Health and Welfare Committee, the House Appropriations Committee, the Senate Public Health and Welfare Committee and the Senate Appropriations Committee, or their designees, two (2) members of the State Senate appointed by the Lieutenant Governor and one (1) member of the House of Representatives appointed by the Speaker of the House, shall serve as ex officio nonvoting members of the task force.

(3) In addition to the committee members required by subsection (2), the task force shall consist of such other

2013 GENERAL LAWS OF MISSISSIPPI SB 2631

members as are necessary to meet the requirements of any federal regulation applicable to the task force.

(4) The chairman of the task force shall be elected by the voting members of the committee annually and shall not serve more than two (2) consecutive years as chairman. The chair shall call the meetings of the task force.

(5) The members of the task force shall serve without compensation.

(6) The task force shall meet not less than quarterly, and task force members shall be furnished written notice of the meetings at least ten (10) days before the date of the meeting. The first meeting of the task force shall be called by the Governor within sixty (60) days of the passage of this act.

(7) The task force shall provide recommendations and advice regarding the following:

(a) Streamlining funding to domestic violence shelters resulting in uniform and objective funding and auditing standards;

(b) Providing recommendations regarding the Victims of Domestic Violence Fund under Section 93-21-117 and its disbursement to shelters;

(c) Considering the impact, definition, funding and certification of batterer intervention programs;

(d) Creating standards for confidentiality of client records;

(e) Updating training requirements for grant monitors, law enforcement and court personnel;

(f) Providing uniform reporting and automation options;

(g) Implementing the formation of a domestic violence commission with the charge of executing recommendations made by this task force.

(8) The Joint Legislative Committee on Performance Evaluation and Expenditure Review (PEER) will provide support and recommendations to the task force.

(9) The task force will develop a report with legislative recommendations to the Governor and to the 2014 Regular Session of the Legislature to be submitted no later than October 1, 2013.

SECTION 2. This act shall take effect and be in force from and after its passage.

Mississippi Legislature

2013 Regular Session

Senate Bill 2633

Description: “Mississippi Student Religious Liberties Act of 2013”; enact.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2013

Chapter Number: 334

History of Actions:

- | | | |
|----|-------|---------------------------|
| 1 | 01/21 | (S) Referred To Education |
| 2 | 02/05 | (S) Title Suff Do Pass |
| 3 | 02/07 | (S) Passed {Vote} |
| 4 | 02/08 | (S) Transmitted To House |
| 5 | 02/21 | (H) Referred To Education |
| 6 | 02/27 | (H) Title Suff Do Pass |
| 7 | 03/05 | (H) Read the Third Time |
| 8 | 03/06 | (H) Passed {Vote} |
| 9 | 03/07 | (H) Transmitted To Senate |
| 10 | 03/11 | (S) Enrolled Bill Signed |
| 11 | 03/11 | (H) Enrolled Bill Signed |
| 12 | 03/14 | Approved by Governor |

----- **Additional Information** -----

Senate Committee: Education

House Committee: Education

Principal Author: McDaniel

Additional Authors: Sojourner, Watson, Smith, Gandy, Tindell, Lee, Ward, Hudson, Harkins, Moran, Hill, Montgomery, Jackson (15th), Fillingane, Polk, Jolly

Title: AN ACT TO ENACT THE “MISSISSIPPI STUDENT RELIGIOUS LIBERTIES ACT OF 2013”; TO PROVIDE FOR VOLUNTARY STUDENT EXPRESSION OF RELIGIOUS VIEWPOINTS IN PUBLIC SCHOOLS; TO PROVIDE THAT PUBLIC SCHOOL DISTRICTS SHALL ALLOW RELIGIOUS EXPRESSION IN CLASS ASSIGNMENTS; TO PROVIDE THAT PUBLIC SCHOOL DISTRICTS SHALL

PROVIDE STUDENTS WITH THE FREEDOM TO ORGANIZE RELIGIOUS GROUPS AND ACTIVITIES; TO PROVIDE THAT PUBLIC SCHOOL DISTRICTS SHALL PROVIDE A LIMITED PUBLIC FORUM FOR STUDENT SPEAKERS AT NONGRADUATION AND GRADUATION EVENTS; TO PROVIDE A MODEL POLICY FOR VOLUNTARY RELIGIOUS EXPRESSION IN PUBLIC SCHOOLS; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI SB 2633

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Education

By: Senator(s) McDaniel, Sojourner, Watson, Smith,
Gandy, Tindell, Lee, Ward, Hudson, Harkins, Moran, Hill,
Montgomery, Jackson (15th), Fillingane, Polk, Jolly

Senate Bill 2633

(As Sent to Governor)

AN ACT TO ENACT THE "MISSISSIPPI STUDENT RELIGIOUS LIBERTIES ACT OF 2013"; TO PROVIDE FOR VOLUNTARY STUDENT EXPRESSION OF RELIGIOUS VIEWPOINTS IN PUBLIC SCHOOLS; TO PROVIDE THAT PUBLIC SCHOOL DISTRICTS SHALL ALLOW RELIGIOUS EXPRESSION IN CLASS ASSIGNMENTS; TO PROVIDE THAT PUBLIC SCHOOL DISTRICTS SHALL PROVIDE STUDENTS WITH THE FREEDOM TO ORGANIZE RELIGIOUS GROUPS AND ACTIVITIES; TO PROVIDE THAT PUBLIC SCHOOL DISTRICTS SHALL PROVIDE A LIMITED PUBLIC FORUM FOR STUDENT SPEAKERS AT NONGRADUATION AND GRADUATION EVENTS; TO PROVIDE A MODEL POLICY FOR VOLUNTARY RELIGIOUS EXPRESSION IN PUBLIC SCHOOLS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. This act shall be known and may be cited as the "Mississippi Student Religious Liberties Act of 2013."

SECTION 2. Student expression. A public school district shall not discriminate against students or parents on the basis of a religious viewpoint or religious expression. A school district shall treat a student's voluntary expression of a religious viewpoint, if any, on an otherwise permissible subject in the same manner the district treats a student's voluntary expression of a secular or other viewpoint on an otherwise permissible subject and may not discriminate against the student based on a religious viewpoint expressed by the student on an otherwise permissible subject.

SECTION 3. Religious expression in class assignments. Students may express their beliefs about religion in homework, artwork, and other written and oral assignments free from discrimination based on the religious content of their submissions. Homework and classroom assignments must be judged by ordinary academic standards of substance and relevance and against other legitimate pedagogical concerns identified by the school district. Students may not be penalized or

rewarded on account of the religious content of their work. If an assignment requires a student's viewpoint to be expressed in coursework, artwork or other written or oral assignments, a public school shall not penalize or reward a student on the basis of religious content or a religious viewpoint. In such an assignment, a student's academic work that expresses a religious viewpoint shall be evaluated based on ordinary academic standards of substance and relevance to the course curriculum or requirements of the coursework or assignment.

SECTION 4. Freedom to organize religious groups and activities. Students in public schools may pray or engage in religious activities or religious expression before, during and after the school day in the same manner and to the same extent that students may engage in nonreligious activities or expression. Students may organize prayer groups, religious clubs, "see you at the pole" gatherings, or other religious gatherings before, during and after school to the same extent that students are permitted to organize other noncurricular student activities and groups. Religious groups must be given the same access to school facilities for assembling as is given to other noncurricular groups without discrimination based on the religious content of the students' expression. If student groups that meet for nonreligious activities are permitted to advertise or announce meetings of the groups, the school district may not discriminate against groups that meet for prayer or other religious speech. A school district may disclaim school sponsorship of noncurricular groups and events in a manner that neither favors nor disfavors groups that meet to engage in prayer or religious speech.

Students in public schools may wear clothing, accessories and jewelry that display religious messages or religious symbols in the same manner and to the same extent that other types of clothing, accessories and jewelry that display messages or symbols are permitted.

SECTION 5. Limited public forum; school district policy.

(1) To ensure that the school district does not discriminate against a student's publicly stated voluntary expression of a religious viewpoint, if any, and to eliminate any actual or perceived affirmative school sponsorship or attribution to the district of a student's expression of a religious viewpoint, if any, a school district shall adopt a policy, which must include the establishment of a limited public forum

for student speakers at all school events at which a student is to publicly speak. The policy regarding the limited public forum must also require the school district to:

(a) Provide the forum in a manner that does not discriminate against a student's voluntary expression of a religious viewpoint, if any, on an otherwise permissible subject;

(b) Provide a method, based on neutral criteria, for the selection of student speakers at school events and graduation ceremonies;

(c) Ensure that a student speaker does not engage in obscene, vulgar, offensively lewd or indecent speech; and

(d) State, in writing, orally, or both, that the student's speech does not reflect the endorsement, sponsorship, position or expression of the district.

(2) The school district disclaimer required by subsection (1)(d) of this section must be provided at all graduation ceremonies. The school district must also continue to provide the disclaimer at any other event in which a student speaks publicly for as long as a need exists to dispel confusion over the district's nonsponsorship of the student's speech.

(3) Student expression on an otherwise permissible subject may not be excluded from the limited public forum because the subject is expressed from a religious viewpoint.

(4) All school districts shall adopt and implement a local policy regarding a limited public forum and voluntary student expression of religious viewpoints. If a school district voluntarily adopts and follows the model policy governing voluntary religious expression in public schools as provided by subsection (5) of this section, the district is in compliance with the provisions of this act covered by the model policy.

(5) **Model policy governing voluntary religious expression in public schools.** In this section, "model policy" means a local policy adopted by the school district that is substantially similar to the following:

ARTICLE I

STUDENT EXPRESSION OF RELIGIOUS VIEWPOINTS

The school district shall treat a student's voluntary expression of a religious viewpoint, if any, on an otherwise

permissible subject in the same manner the district treats a student's voluntary expression of a secular or other viewpoint on an otherwise permissible subject and may not discriminate against the student based on a religious viewpoint expressed by the student on an otherwise permissible subject.

ARTICLE II

STUDENT SPEAKERS AT NONGRADUATION EVENTS

The school district hereby creates a limited public forum for student speakers at all school events at which a student is to publicly speak. For each speaker, the district shall set a maximum time limit reasonable and appropriate to the occasion. Student speakers shall introduce:

- (a) Football games;
- (b) Any other athletic events designated by the district;
- (c) Opening announcements and greetings for the school day; and
- (d) Any additional events designated by the district, which may include, without limitation, assemblies and pep rallies.

The forum shall be limited in the manner provided by this article.

Only those students in the highest two (2) grade levels of the school and who hold one (1) of the following positions of honor based on neutral criteria are eligible to use the limited public forum: student council officers, class officers of the highest grade level in the school, captains of the football team, and other students holding positions of honor as the school district may designate.

An eligible student shall be notified of the student's eligibility, and a student who wishes to participate as an introducing speaker shall submit the student's name to the student council or other designated body during an announced period of not less than three (3) days. The announced period may be at the beginning of the school year, at the end of the preceding school year so student speakers are in place for the new year, or, if the selection process will be repeated each semester, at the beginning of each semester or at the end of the preceding semester so speakers are in place for the next semester. The names of the volunteering student speakers shall be randomly drawn until all names have been selected, and

the names shall be listed in the order drawn. Each selected student will be matched chronologically to the event for which the student will be giving the introduction. Each student may speak for one (1) week at a time for all introductions of events that week, or rotate after each speaking event, or otherwise as determined by the district. The list of student speakers shall be chronologically repeated as needed, in the same order. The district may repeat the selection process each semester rather than once a year.

The subject of the student introductions must be related to the purpose of the event and to the purpose of marking the opening of the event, honoring the occasion, the participants, and those in attendance, bringing the audience to order, and focusing the audience on the purpose of the event. The subject must be designated, a student must stay on the subject, and the student may not engage in obscene, vulgar, offensively lewd or indecent speech. The school district shall treat a student's voluntary expression of a religious viewpoint, if any, on an otherwise permissible subject in the same manner the district treats a student's voluntary expression of a secular or other viewpoint on an otherwise permissible subject and may not discriminate against the student based on a religious viewpoint expressed by the student on an otherwise permissible subject.

For as long as there is a need to dispel confusion over the nonsponsorship of the student's speech at each event in which a student will deliver an introduction, a disclaimer shall be stated in written or oral form, or both, such as, "The student giving the introduction for this event is a volunteering student selected on neutral criteria to introduce the event. The content of the introduction is the private expression of the student and does not reflect the endorsement, sponsorship, position or expression of the school district."

Certain students who have attained special positions of honor in the school have traditionally addressed school audiences from time to time as a tangential component of their achieved positions of honor, such as the captains of various sports teams, student council officers, class officers, homecoming kings and queens, prom kings and queens, and the like, and have attained their positions based on neutral criteria. Nothing in this policy eliminates the continuation of the practice of having these students, irrespective of

grade level, address school audiences in the normal course of their respective positions. The school district shall create a limited public forum for the speakers and shall treat a student's voluntary expression of a religious viewpoint, if any, on an otherwise permissible subject in the same manner the district treats a student's voluntary expression of a secular or other viewpoint on an otherwise permissible subject and may not discriminate against the student based on a religious viewpoint expressed by the student on an otherwise permissible subject.

ARTICLE III

STUDENT SPEAKERS AT GRADUATION CEREMONIES

The school district hereby creates a limited public forum consisting of an opportunity for a student to speak to begin graduation ceremonies and another student to speak to end graduation ceremonies. For each speaker, the district shall set a maximum time limit reasonable and appropriate to the occasion.

The forum shall be limited in the manner provided by this article.

Only students who are graduating and who hold one (1) of the following neutral criteria positions of honor shall be eligible to use the limited public forum: student council officers, class officers of the graduating class, the top three (3) academically ranked graduates, or a shorter or longer list of student leaders as the school district may designate. A student who will otherwise have a speaking role in the graduation ceremonies is ineligible to give the opening and closing remarks. The names of the eligible volunteering students will be randomly drawn. The first name drawn will give the opening and the second name drawn will give the closing.

The topic of the opening and closing remarks must be related to the purpose of the graduation ceremony and to the purpose of marking the opening and closing of the event, honoring the occasion, the participants, and those in attendance, bringing the audience to order, and focusing the audience on the purpose of the event.

In addition to the students giving the opening and closing remarks, certain other students who have attained special positions of honor based on neutral criteria, including, without limitation, the valedictorian, will have speaking

roles at graduation ceremonies. For each speaker, the school district shall set a maximum time limit reasonable and appropriate to the occasion and to the position held by the speaker. For this purpose, the district creates a limited public forum for these students to deliver the addresses. The subject of the addresses must be related to the purpose of the graduation ceremony, marking and honoring the occasion, honoring the participants and those in attendance, and the student's perspective on purpose, achievement, life, school, graduation, and looking forward to the future.

The subject must be designated for each student speaker, the student must stay on the subject, and the student may not engage in obscene, vulgar, offensively lewd or indecent speech. The school district shall treat a student's voluntary expression of a religious viewpoint, if any, on an otherwise permissible subject in the same manner the district treats a student's voluntary expression of a secular or other viewpoint on an otherwise permissible subject and may not discriminate against the student based on a religious viewpoint expressed by the student on an otherwise permissible subject.

A written disclaimer shall be printed in the graduation program that states, "The students who will be speaking at the graduation ceremony were selected based on neutral criteria to deliver messages of the students' own choices. The content of each student speaker's message is the private expression of the individual student and does not reflect any position or expression of the school district or the board of trustees, or the district's administration, or employees of the district, or the views of any other graduate. The contents of these messages were prepared by the student volunteers, and the district refrained from any interaction with student speakers regarding the student speakers' viewpoints on permissible subjects."

ARTICLE IV

RELIGIOUS EXPRESSION IN CLASS ASSIGNMENTS

Students may express the students' beliefs about religion in homework, artwork, and other written and oral assignments free from discrimination based on the religious content of the students' submission. Homework and classroom work shall be judged by ordinary academic standards of substance and relevance and against other legitimate pedagogical concerns identified by the school. Students may not be penalized or

rewarded on account of religious content. If a teacher's assignment involves writing a poem, the work of a student who submits a poem in the form of a prayer (for example, a psalm) should be judged on the basis of academic standards, including literary quality, and not penalized or rewarded on account of its religious content.

ARTICLE V

FREEDOM TO ORGANIZE RELIGIOUS GROUPS AND ACTIVITIES

Students may organize prayer groups, religious clubs, "see you at the pole" gatherings, and other religious gatherings before, during and after school to the same extent that students are permitted to organize other noncurricular student activities and groups. Religious groups must be given the same access to school facilities for assembling as is given to other noncurricular groups, without discrimination based on the religious content of the group's expression. If student groups that meet for nonreligious activities are permitted to advertise or announce the groups' meetings, for example, by advertising in a student newspaper, putting up posters, making announcements on a student activities bulletin board or public address system, or handing out leaflets, school authorities may not discriminate against groups that meet for prayer or other religious speech. School authorities may disclaim sponsorship of noncurricular groups and events, provided they administer the disclaimer in a manner that does not favor or disfavor groups that meet to engage in prayer or other religious speech.

SECTION 6. This act shall not be construed to authorize this state or any of its political subdivisions to do either of the following:

(a) Require any person to participate in prayer or in any other religious activity.

(b) Violate the constitutional rights of any person.

SECTION 7. This act shall not be construed to limit the authority of any public school to do any of the following:

(a) Maintain order and discipline on the campus of the public school in a content and viewpoint neutral manner.

(b) Protect the safety of students, employees and visitors of the public school.

2013 GENERAL LAWS OF MISSISSIPPI SB 2633

(c) Adopt and enforce policies and procedures regarding student speech at school provided that the policies and procedures do not violate the rights of students as guaranteed by the United States and Mississippi constitutions and laws.

SECTION 8. This act applies beginning with the 2013-2014 school year.

SECTION 9. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

Senate Bill 2647

Description: NICS Improvement Act; create.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Three/Fifths

Effective date: July 1, 2013

Chapter Number: 384

History of Actions:

- | | | | |
|----|-------|-----|--|
| 1 | 01/21 | (S) | Referred To Judiciary, Division A |
| 2 | 01/29 | (S) | Title Suff Do Pass Comm Sub |
| 3 | 02/07 | (S) | Committee Substitute Adopted |
| 4 | 02/07 | (S) | Amended |
| 5 | 02/07 | (S) | Passed As Amended {Vote} |
| 6 | 02/11 | (S) | Transmitted To House |
| 7 | 02/21 | (H) | Referred To Judiciary A |
| 8 | 02/28 | (H) | Title Suff Do Pass |
| 9 | 03/07 | (H) | Passed {Vote} |
| 10 | 03/07 | (H) | Motion to Reconsider Entered (Baker, Reynolds) |
| 11 | 03/13 | (H) | Motion to Reconsider Tabled |
| 12 | 03/13 | (H) | Transmitted To Senate |
| 13 | 03/14 | (S) | Enrolled Bill Signed |
| 14 | 03/14 | (H) | Enrolled Bill Signed |
| 15 | 03/20 | | Approved by Governor |

Amendments:

[S] Amendment No 1 (Cmte Sub)*Adopted* Voice Vote

Code Section: A 097-0037-0005, A 041-0021-0101

----- Additional Information -----

Senate Committee: Judiciary, Division A

House Committee: Judiciary A

Principal Author: Hopson

Additional Authors: Ward

Title: AN ACT TO CREATE THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM IMPROVEMENT ACT; TO FACILITATE REPORTING TO THE FEDERAL BUREAU OF INVESTIGATION CERTAIN INFORMATION SOLELY FOR THE PURPOSE OF INCLUSION IN THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM DATABASE; TO ENACT DEFINITIONS; TO IMPOSE DUTIES ON CIRCUIT AND CHANCERY CLERKS; TO IMPOSE DUTIES ON CIRCUIT AND CHANCERY COURTS; TO AMEND SECTION 97-37-5, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR REHABILITATION FROM THE DISABILITY OF BEING ABLE TO PURCHASE A FIREARM UNDER FEDERAL LAW; TO AMEND SECTION 41-21-101, MISSISSIPPI CODE OF 1972, TO CONFORM; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI SB 2647

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Judiciary, Division A

By: Senator(s) Hopson, Ward

Senate Bill 2647

(As Sent to Governor)

AN ACT TO CREATE THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM IMPROVEMENT ACT; TO FACILITATE REPORTING TO THE FEDERAL BUREAU OF INVESTIGATION CERTAIN INFORMATION SOLELY FOR THE PURPOSE OF INCLUSION IN THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM DATABASE; TO ENACT DEFINITIONS; TO IMPOSE DUTIES ON CIRCUIT AND CHANCERY CLERKS; TO IMPOSE DUTIES ON CIRCUIT AND CHANCERY COURTS; TO AMEND SECTION 97-37-5, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR REHABILITATION FROM THE DISABILITY OF BEING ABLE TO PURCHASE A FIREARM UNDER FEDERAL LAW; TO AMEND SECTION 41-21-101, MISSISSIPPI CODE OF 1972, TO CONFORM; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. The following shall be codified as Section 45-9-103, Mississippi Code of 1972:

45-9-103. Federal firearm reporting. (1) In this section, "federal prohibited-person information" means information that identifies an individual as:

(a) A person who has been judicially determined by a court as a mentally ill or mentally retarded person under Title 41, Chapter 21, Mississippi Code of 1972, whether ordered for inpatient treatment, outpatient treatment, day treatment, night treatment or home health services treatment;

(b) A person acquitted in a criminal case by reason of insanity or on a ground of intellectual disability, without regard to whether the person is ordered by a court to receive inpatient treatment or residential care under Section 99-13-7;

(c) An adult individual for whom a court has appointed a guardian or conservator under Title 93, Chapter 13, based on the determination that the person is incapable of managing his own estate due to mental weakness; or

(d) A person determined to be incompetent to stand trial by a court pursuant to Rule 9.06 of the Mississippi Rules of Circuit and County Court Practice.

(2) The Department of Public Safety by rule shall establish a procedure to provide federal prohibited-person information to the Federal Bureau of Investigation for use with the National Instant Criminal Background Check System. Except as otherwise provided by state law, the department may disseminate federal prohibited-person information under this subsection only to the extent necessary to allow the Federal Bureau of Investigation to collect and maintain a list of persons who are prohibited under federal law from engaging in certain activities with respect to a firearm.

(3) The department shall grant access to a person's own federal prohibited-person information to the person who is the subject of the information.

(4) Federal prohibited-person information maintained by the department is confidential information for the use of the department and, except as otherwise provided by this section and other state law, is not a public record and may not be disseminated by the department.

(5) The department by rule shall establish a procedure to correct department records and transmit those corrected records to the Federal Bureau of Investigation when a person provides:

(a) A copy of a judicial order or finding under Section 93-13-151 that a person has been restored to reason;

(b) Proof that the person has obtained notice of relief from disabilities under 18 USC, Section 925; or

(c) A copy of a judicial order of relief from a firearms disability under Section 97-37-5(4).

SECTION 2. The following shall be codified as Section 9-1-49, Mississippi Code of 1972:

9-1-49. Report concerning certain persons' access to firearms. (1) The clerk of the court shall prepare and forward to the Department of Public Safety the information described by subsection (2) of this section not later than the thirtieth day after the date the court:

(a) Judicially determines that a person is a mentally ill or mentally retarded person under Title 41, Chapter 21,

Mississippi Code of 1972, whether ordered for inpatient treatment, outpatient treatment, day treatment, night treatment or home health services treatment;

(b) Acquits a person in a criminal case by reason of insanity or on a ground of intellectual disability, without regard to whether the person is ordered by a court to receive inpatient treatment or residential care under Section 99-13-7;

(c) Appoints a guardian or conservator under Title 93, Chapter 13, based on the determination that the person is incapable of managing his own estate due to mental weakness;

(d) Determines that a person is incompetent to stand trial pursuant to Rule 9.06 of the Mississippi Rules of Circuit and County Court Practice;

(e) Finds under Section 93-13-151 that a person has been restored to reason; or

(f) Enters an order of relief from a firearms disability under Section 97-37-5(4).

(2) The clerk of the court shall prepare and forward the following information:

(a) The complete name, race, and sex of the person;

(b) Any known identifying number of the person, including social security number, driver's license number, or state identification card number;

(c) The person's date of birth; and

(d) The federal prohibited-person information that is the basis of the report required by this section.

(3) If practicable, the clerk of the court shall forward to the Department of Public Safety the information described by subsection (2) of this section in an electronic format prescribed by the department.

(4) If an order previously reported to the department under subsection (1) of this section is reversed by order of any court, the clerk shall notify the department of the reversal not later than thirty (30) days after the clerk receives the court order or the mandate from the appellate court.

(5) The duty of a clerk to prepare and forward information under this section is not affected by:

(a) Any subsequent appeal of the court order;

- (b) Any subsequent modification of the court order; or
- (c) The expiration of the court order.

SECTION 3. Section 97-37-5, Mississippi Code of 1972, is amended as follows:

97-37-5. (1) It shall be unlawful for any person who has been convicted of a felony under the laws of this state, any other state, or of the United States to possess any firearm or any bowie knife, dirk knife, butcher knife, switchblade knife, metallic knuckles, blackjack, or any muffler or silencer for any firearm unless such person has received a pardon for such felony, has received a relief from disability pursuant to Section 925(c) of Title 18 of the United States Code, or has received a certificate of rehabilitation pursuant to subsection (3) of this section.

(2) Any person violating this section shall be guilty of a felony and, upon conviction thereof, shall be fined not more than Five Thousand Dollars (\$5,000.00), or committed to the custody of the State Department of Corrections for not less than one (1) year nor more than ten (10) years, or both.

(3) A person who has been convicted of a felony under the laws of this state may apply to the court in which he was convicted for a certificate of rehabilitation. The court may grant such certificate in its discretion upon a showing to the satisfaction of the court that the applicant has been rehabilitated and has led a useful, productive and law-abiding life since the completion of his sentence and upon the finding of the court that he will not be likely to act in a manner dangerous to public safety.

(4) (a) A person who is discharged from court-ordered mental health treatment may petition the court which entered the commitment order for an order stating that the person qualifies for relief from a firearms disability.

(b) In determining whether to grant relief, the court must hear and consider evidence about:

(i) The circumstances that led to imposition of the firearms disability under 18 USC, Section 922(d)(4);

(ii) The person's mental history;

(iii) The person's criminal history; and

(iv) The person's reputation.

2013 GENERAL LAWS OF MISSISSIPPI SB 2647

(c) A court may not grant relief unless it makes and enters in the record the following affirmative findings:

(i) That the person is no longer likely to act in a manner dangerous to public safety; and

(ii) Removing the person's disability to purchase a firearm is not against the public interest.

SECTION 4. Section 41-21-101, Mississippi Code of 1972, is amended as follows:

41-21-101. No admission or commitment to a treatment facility under Sections 41-21-61 through 41-21-107 or any finding of need for treatment, or any authorization of continued treatment under said sections (a) is an adjudication of legal incompetency, or (b), except as provided in Sections 45-9-101 and 45-9-103, deprives the person of his right to exercise his civil rights, including, but not limited to, civil service status, the right to vote, rights relating to the granting renewal, forfeiture or denial of a license, permit, privilege or benefit pursuant to any law, or the right to enter into contractual relationships and to manage his property; nor does* * *an admission, hospitalization, finding or authorization of continued hospitalization create any presumption that* * * the person is incompetent.

SECTION 5. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

Senate Bill 2675

Description: Commissioner of Insurance; increase the amount of reward which may be offered in cases of arson.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2013

Chapter Number: 324

History of Actions:

- | | | | |
|----|-------|-----|-----------------------|
| 1 | 01/21 | (S) | Referred To Insurance |
| 2 | 01/29 | (S) | Title Suff Do Pass |
| 3 | 02/07 | (S) | Passed {Vote} |
| 4 | 02/08 | (S) | Transmitted To House |
| 5 | 02/21 | (H) | Referred To Insurance |
| 6 | 02/26 | (H) | Title Suff Do Pass |
| 7 | 02/28 | (H) | Passed {Vote} |
| 8 | 03/01 | (H) | Transmitted To Senate |
| 9 | 03/04 | (S) | Enrolled Bill Signed |
| 10 | 03/04 | (H) | Enrolled Bill Signed |
| 11 | 03/07 | | Approved by Governor |

Code Section: A 083-0001-0035

----- Additional Information -----

Senate Committee: Insurance

House Committee: Insurance

Principal Author: Carmichael

Title: AN ACT TO AMEND SECTION 83-1-35, MISSISSIPPI CODE OF 1972, TO INCREASE THE AMOUNT OF REWARD WHICH MAY BE OFFERED BY THE COMMISSIONER OF INSURANCE IN CASES OF WILLFUL DESTRUCTION BY FIRE OR EXPLOSION OF ANY REAL OR PERSONAL PROPERTY LOCATED IN THIS STATE; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI SB 2675

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Insurance

By: Senator(s) Carmichael

Senate Bill 2675

(As Sent to Governor)

AN ACT TO AMEND SECTION 83-1-35, MISSISSIPPI CODE OF 1972, TO INCREASE THE AMOUNT OF REWARD WHICH MAY BE OFFERED BY THE COMMISSIONER OF INSURANCE IN CASES OF WILLFUL DESTRUCTION BY FIRE OR EXPLOSION OF ANY REAL OR PERSONAL PROPERTY LOCATED IN THIS STATE; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 83-1-35, Mississippi Code of 1972, is amended as follows:

83-1-35. The Commissioner of Insurance is hereby authorized, in his discretion, to offer a reward not to exceed* * * Five Thousand Dollars (\$5,000.00) for information leading to the apprehension, indictment and conviction of any person, persons or organization of persons responsible for the willful destruction by fire or explosion of any real or personal property located within this state.

The Commissioner of Insurance is further directed to have suitable reward notices printed and posted in conspicuous places, and to utilize such other news media or informational materials as necessary to encourage those with information to come forward.

The reward monies paid, if any, as well as the cost of printing and distribution of reward notices and other news media or informational materials, shall be paid from premium taxes under Sections 27-15-103 and 27-15-109. However, the Commissioner of Insurance shall keep a separate account of all monies disbursed under the provisions of this section and shall include the same in his annual report.

SECTION 2. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

Senate Bill 2684

Description: Model Business Corporation Act; correct references to in Code.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Three/Fifths

Effective date: July 1, 2013

Chapter Number: 419

History of Actions:

1	01/21	(S) Referred To Judiciary, Division A
2	01/29	(S) Title Suff Do Pass
3	02/06	(S) Passed {Vote}
4	02/07	(S) Transmitted To House
5	02/21	(H) Referred To Judiciary A
6	02/28	(H) Title Suff Do Pass
7	03/07	(H) Passed {Vote}
8	03/11	(H) Transmitted To Senate
9	03/14	(S) Enrolled Bill Signed
10	03/14	(H) Enrolled Bill Signed
11	03/20	Approved by Governor

Code Section: A 027-0013-0005, A 027-0013-0007, A 027-0013-0017, A 079-0007-0001, A 079-0011-0057, RP 079-0017-0041

----- Additional Information -----

Senate Committee: Judiciary, Division A

House Committee: Judiciary A

Principal Author: Doty

Title: AN ACT TO AMEND SECTIONS 27-13-5, 27-13-7, 27-13-17, 79-7-1 AND 79-11-57, MISSISSIPPI CODE OF 1972, TO CORRECT INTERNAL CODE SECTION REFERENCES TO THE MODEL BUSINESS CORPORATION ACT; TO REPEAL SECTION 79-17-41, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR CHANGING THE CORPORATE FORM OF A COOPERATIVE ASSOCIATION; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Judiciary, Division A

By: Senator(s) Doty

Senate Bill 2684

(As Sent to Governor)

AN ACT TO AMEND SECTIONS 27-13-5, 27-13-7, 27-13-17, 79-7-1 AND 79-11-57, MISSISSIPPI CODE OF 1972, TO CORRECT INTERNAL CODE SECTION REFERENCES TO THE MODEL BUSINESS CORPORATION ACT; TO REPEAL SECTION 79-17-41, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR CHANGING THE CORPORATE FORM OF A COOPERATIVE ASSOCIATION; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 27-13-5, Mississippi Code of 1972, is amended as follows:

27-13-5. (1) **Franchise tax levy.** Except as otherwise provided in subsections (3), (4), (5) and (7) of this section, there is hereby imposed, to be paid and collected as hereinafter provided, a franchise or excise tax upon every corporation, association or joint-stock company or partnership treated as a corporation under the income tax laws or regulations, organized or created for pecuniary gain, having privileges not possessed by individuals, and having authorized capital stock now existing in this state, or hereafter organized, created or established, under and by virtue of the laws of the State of Mississippi, equal to Two Dollars and Fifty Cents (\$2.50) for each One Thousand Dollars (\$1,000.00), or fraction thereof, of the value of the capital used, invested or employed in the exercise of any power, privilege or right enjoyed by such organization within this state, except as hereinafter provided. In no case shall the franchise tax due for the accounting period be less than Twenty-five Dollars (\$25.00). It is the purpose of this section to require the payment to the State of Mississippi of this tax for the right granted by the laws of this state to exist as such organization, and to enjoy, under the protection of the laws of this state, the powers, rights, privileges and immunities derived from the state by the form of such existence.

(2) **Annual report of domestic corporations.** Each domestic corporation shall file* * * an annual report as required by the provisions of Section* * * 79-4-16.22.

(3) A corporation that has negotiated a fee-in-lieu as defined in Section 57-75-5 shall not be subject to the tax levied by this section on such project; provided, however, that the fee-in-lieu payment shall be otherwise treated in the same manner as the payment of franchise taxes.

(4) An approved business enterprise as defined in the Growth and Prosperity Act shall not be subject to the tax levied by this section on the value of capital used, invested or employed by the approved business enterprise in a growth and prosperity county or supervisors district as provided in the Growth and Prosperity Act.

(5) A business enterprise operating a project as defined in Section 57-64-33, in a county that is a member of a regional economic development alliance created under the Regional Economic Development Act shall not be subject to the tax levied by this section on the value of capital used, invested or employed by the business enterprise in such a county as provided in Section 57-64-33.

(6) The tax levied by this chapter and paid by a business enterprise located in a redevelopment project area under Sections 57-91-1 through 57-91-11 shall be deposited into the Redevelopment Project Incentive Fund created in Section 57-91-9.

(7) A business enterprise as defined in Section 57-113-1 that is exempt from certain state taxes under Section 57-113-5 shall not be subject to the tax levied by this section on the value of capital used, invested or employed by the business enterprise.

SECTION 2. Section 27-13-7, Mississippi Code of 1972, is amended as follows:

27-13-7. (1) **Franchise tax levy.** Except as otherwise provided in subsections (3), (4), (5) and (7) of this section, there is hereby imposed, levied and assessed upon every corporation, association or joint-stock company, or partnership treated as a corporation under the Income Tax Laws or regulations as hereinbefore defined, organized and existing under and by virtue of the laws of some other state, territory or country, or organized and existing without any

specific statutory authority, now or hereafter doing business or exercising any power, privilege or right within this state, as hereinbefore defined, a franchise or excise tax equal to Two Dollars and Fifty Cents (\$2.50) of each One Thousand Dollars (\$1,000.00), or fraction thereof, of the value of capital used, invested or employed within this state, except as hereinafter provided. In no case shall the franchise tax due for the accounting period be less than Twenty-five Dollars (\$25.00). It is the purpose of this section to require the payment of a tax by all organizations not organized under the laws of this state, measured by the amount of capital or its equivalent, for which such organization receives the benefit and protection of the government and laws of the state.

(2) **Annual report of foreign corporations.** Each foreign corporation authorized to transact business in this state shall file* * * an annual report as required by the provisions of Section* * * 79-4-16.22.

(3) A corporation that has negotiated a fee-in-lieu as defined in Section 57-75-5 shall not be subject to the tax levied by this section on such project; provided, however, that the fee-in-lieu payment shall be otherwise treated in the same manner as the payment of franchise taxes.

(4) An approved business enterprise as defined in the Growth and Prosperity Act shall not be subject to the tax levied by this section on the value of capital used, invested or employed by the approved business enterprise in a growth and prosperity county or supervisors district as provided in the Growth and Prosperity Act.

(5) A business enterprise operating a project as defined in Section 57-64-33, in a county that is a member of a regional economic development alliance created under the Regional Economic Development Act shall not be subject to the tax levied by this section on the value of capital used, invested or employed by the business enterprise in such a county as provided in Section 57-64-33.

(6) The tax levied by this chapter and paid by a business enterprise located in a redevelopment project area under Sections 57-91-1 through 57-91-11 shall be deposited into the Redevelopment Project Incentive Fund created in Section 57-91-9.

(7) A business enterprise as defined in Section 57-113-1 that is exempt from certain state taxes under Section 57-113-5 shall not be subject to the tax levied by this section on the value of capital used, invested or employed by the business enterprise.

SECTION 3. Section 27-13-17, Mississippi Code of 1972, is amended as follows:

27-13-17. (1) **In general.** The tax levied by this chapter is assessed for the annual accounting period regularly used by the taxpayer in keeping its books, with no proration for a portion of the year in the case of dissolution of domestic corporations or withdrawal from the state by foreign corporations or where a corporation otherwise ceases to become taxable under this chapter. The tax accrues on the first day of each accounting period, to be known as the accrual date, and annually thereafter, and is computed on the basis of the previous accounting period closing immediately prior to the accrual date, to be known as the measuring date.

For all corporations having an accrual date on or after June 1, 1975, the tax is due and payable in full to the commissioner on or before the fifteenth day of the third month following the close of the annual accounting period. With its payment, the taxpayer shall deliver to the commissioner a full, accurate and complete report and statement signed by a duly authorized officer of the corporation, containing such information as the commissioner may require.

(2) **Accounting periods.** If permission is granted to change the corporate accounting period, as provided in subsection (4) of this section, the corporation shall file a return and make payment of the tax for the period from the end of the twelve-month period for which the tax had already accrued to the first closing of the new accounting period. The tax to be paid in this case shall be based on the preceding accounting period closing and shall be computed by multiplying the ratio that the number of months from the closing date under the prior accounting period to the closing of the new accounting period bears to twelve (12) times the tax as computed on the yearly basis. Subsequent returns will be filed on the basis of the new accounting period in accordance with the provisions of this chapter.

(3) **Newly taxable corporations.** When a corporation is incorporated, domesticated, commences business or qualifies to

do business in this state, it shall, on or before the sixtieth day following the date of its charter of incorporation (as to domestic corporation), domestication, qualification or commencement of business in this state, make and deliver to the commissioner, in such form as he may prescribe, a full, accurate and complete statement signed by either its president, vice president or treasurer containing such facts and information as may be required by the commissioner in the administration of the tax levied by this chapter. After the first closing of the corporate books, the tax is payable as provided in subsection (1) of this section. No corporation, foreign or domestic, shall be permitted to do business in this state without paying the franchise tax levied by this chapter.

(4) **Accounting period not to be changed.** No accounting period, other than calendar year, will be recognized, unless before its close it was definitely established as an accounting period by the taxpayer and the books of such taxpayer were kept in accordance therewith. No accounting period shall be changed without the approval of the commissioner.

(5) **Combined returns.** A combined return of franchise tax, being Section 27-13-1 et seq.; income tax, being Section 27-7-1 et seq.; and the annual report of domestic and foreign corporations, being Section* * * 79-4-16.22, is herein authorized, to be filed in accordance with rules or regulations promulgated by the commissioner. In the case of authorized extensions of time for filing returns, including the annual report of domestic or foreign corporations, the provisions of the Mississippi Income Tax Law of 1952, being Section 27-1-1 et seq., as amended, shall control with respect to extensions of time for the filing of a combined return.

(6) **Final return.** An organization which begins the accounting year for which the tax is due shall be liable for payment of the full tax, notwithstanding its dissolution or withdrawal prior to the end of said year or prior to the due date of the return.

SECTION 4. Section 79-7-1, Mississippi Code of 1972, is amended as follows:

79-7-1. Small business investment companies organized under the provisions of the Small Business Investment Act of 1958, Public Law 699, 85th Congress, may be incorporated in this state under the provisions of Chapter* * * 4, Title

79, Mississippi Code of 1972,* * * except that the charter of any such corporation may include a statement of such powers and limitations as is acceptable to the Small Business Administration and not contrary to law and need not include a statement that the rights and powers that may be exercised by said corporation in addition thereto are those conferred by said Chapter* * * 4, Title 79, Mississippi Code of 1972.

SECTION 5. Section 79-11-57, Mississippi Code of 1972, is amended as follows:

79-11-57. Any corporation which is a "private foundation" (as defined in Section 509(a) of the United States Internal Revenue Code) may amend its articles of incorporation expressly to exclude the application of Sections 79-11-51 and 79-11-53, or any portion thereof, in the manner provided by Section* * * 79-4-10.01 et seq. or Sections 79-11-101 through 79-11-399, whichever is applicable. The corporation shall not be liable to anyone for any payments made under Section 79-11-53 prior to such amendment.

SECTION 6. Section 79-17-41, Mississippi Code of 1972, which provides for changing the corporate form of a cooperative association, is repealed.

SECTION 7. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

Senate Bill 2687

Description: Consumer incentive items/food nutrition labeling; prohibit local government regulation of.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: Passage

Chapter Number: 370

History of Actions:

1	01/21	(S)	Referred To Public Health and Welfare
2	02/05	(S)	Title Suff Do Pass
3	02/13	(S)	Passed {Vote}
4	02/14	(S)	Transmitted To House
5	02/21	(H)	Referred To Public Health and Human Services
6	02/28	(H)	Title Suff Do Pass
7	03/05	(H)	Read the Third Time
8	03/06	(H)	Passed {Vote}
9	03/06	(H)	Motion to Reconsider Entered (Young, Mims, Barker)
10	03/07	(H)	Motion to Reconsider Tabled
11	03/07	(H)	Transmitted To Senate
12	03/11	(S)	Enrolled Bill Signed
13	03/11	(H)	Enrolled Bill Signed
14	03/18		Approved by Governor

----- **Additional Information** -----

Senate Committee: Public Health and Welfare

House Committee: Public Health and Human Services

Principal Author: Smith

Additional Authors: Sojourner

Title: AN ACT TO RESERVE TO THE LEGISLATURE ANY REGULATION OF CONSUMER INCENTIVE ITEMS AND NUTRITION LABELING FOR FOOD THAT IS A MENU ITEM IN RESTAURANTS, FOOD ESTABLISHMENTS AND VENDING MACHINES; TO SPECIFY THAT THE ACT WOULD NOT AFFECT THE FEDERAL REGULATION OF NUTRITION LABELING UNDER EXISTING FEDERAL LAW; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Public Health and Welfare

By: Senator(s) Smith, Sojourner

Senate Bill 2687

(As Sent to Governor)

AN ACT TO RESERVE TO THE LEGISLATURE ANY REGULATION OF CONSUMER INCENTIVE ITEMS AND NUTRITION LABELING FOR FOOD THAT IS A MENU ITEM IN RESTAURANTS, FOOD ESTABLISHMENTS AND VENDING MACHINES; TO SPECIFY THAT THE ACT WOULD NOT AFFECT THE FEDERAL REGULATION OF NUTRITION LABELING UNDER EXISTING FEDERAL LAW; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. (1) As used in this act:

(a) "Food nutrition information" includes, but is not limited to, the caloric, fat, carbohydrate, cholesterol, fiber, sugar, potassium, protein, vitamin, mineral, sodium, and allergen content of food. "Food nutrition information" also includes the designation of food as healthy or unhealthy.

(b) "Political subdivision" means any county, municipality, town, district, instrumentality of the state, public corporation, body corporate, commission, board, agency, authority, public body, politic or other public entity responsible for governmental activities in geographic areas smaller than that of the state.

(c) "Consumer incentive item" means any licensed media character, toy, game, trading card, contest, point accumulation, club membership, admission ticket, token, code or password for digital access, coupon, voucher, incentive, crayons, coloring placemats, or other premium, prize or consumer product that is associated with a meal served by or acquired from a food service operation.

(2) The regulation of consumer incentive items and nutrition labeling for food and nonalcoholic beverages that are menu items in restaurants, retail food establishments, and vending machines is reserved to the Legislature and may be regulated only by legislation of statewide application enacted after the effective date of this act. The regulation of the provision of food nutrition information and consumer incentive items at

food service operations and how food service operations are characterized are matters of general statewide interest that require statewide regulation, and rules adopted under this section constitute a comprehensive plan with respect to all aspects of the regulation of the provision of food nutrition information and consumer incentive items at food service operations in this state. Rules adopted under this act shall be applied uniformly throughout this state.

(3) No political subdivision shall do any of the following:

(a) Enact, adopt or continue in effect local legislation relating to the provision or nonprovision of food nutrition information or consumer incentive items at food service operations;

(b) Condition any license, permit or regulatory approval upon the provision or nonprovision of food nutrition information or consumer incentive items at food service operations;

(c) Ban, prohibit, or otherwise restrict food at food service operations based upon the food's nutrition information or upon the provision or nonprovision of consumer incentive items;

(d) Condition any license, permit or regulatory approval for a food service operation upon the existence or nonexistence of food-based health disparities;

(e) Where food service operations are permitted to operate, ban, prohibit, or otherwise restrict a food service operation based upon the existence or nonexistence of food-based health disparities as recognized by the department of health, the institute of health, or the centers for disease control.

(f) Restrict the sale, distribution, growing, raising or serving of foods and nonalcoholic beverages that are approved for sale by the USDA or other federal or state government agencies.

(4) This act shall not be interpreted as being more restrictive than any federal law or affecting in any manner the regulation of the nutrition labeling of food that is a menu item in restaurants, retail food establishments, and vending machines pursuant to the federal Food, Drug and Cosmetic Act, 21 USC 343(q) (5) (H).

SECTION 2. This act shall take effect and be in force from and after its passage.

Mississippi Legislature

2013 Regular Session

Senate Bill 2728

Description: Bonds; revise purposes for which proceeds of bonds for USM/Gulf Coast Campuses may be used.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Three/Fifths

Effective date: July 1, 2013

Chapter Number: 353

History of Actions:

- | | | | |
|----|-------|-----|------------------------------|
| 1 | 01/21 | (S) | Referred To Finance |
| 2 | 02/05 | (S) | Title Suff Do Pass Comm Sub |
| 3 | 02/12 | (S) | Committee Substitute Adopted |
| 4 | 02/12 | (S) | Passed {Vote} |
| 5 | 02/13 | (S) | Transmitted To House |
| 6 | 02/20 | (H) | Referred To Ways and Means |
| 7 | 03/05 | (H) | Title Suff Do Pass |
| 8 | 03/06 | (H) | Passed {Vote} |
| 9 | 03/07 | (H) | Transmitted To Senate |
| 10 | 03/11 | (S) | Enrolled Bill Signed |
| 11 | 03/11 | (H) | Enrolled Bill Signed |
| 12 | 03/18 | | Approved by Governor |

----- **Additional Information** -----

Senate Committee: Finance

House Committee: Ways and Means

Principal Author: Fillingane

Title: AN ACT TO AMEND SECTION 1, CHAPTER 557, LAWS OF 2009, TO REVISE THE PURPOSES FOR WHICH THE PROCEEDS OF BONDS AUTHORIZED TO BE ISSUED FOR THE GULF COAST CAMPUSES OF THE UNIVERSITY OF SOUTHERN MISSISSIPPI MAY BE USED; TO EXTEND UNTIL JULY 1, 2015, THE AUTHORITY TO ISSUE STATE GENERAL OBLIGATION BONDS FOR CERTAIN PURPOSES; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI SB 2728

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Finance

By: Senator(s) Fillingane

Senate Bill 2728

(As Sent to Governor)

AN ACT TO AMEND SECTION 1, CHAPTER 557, LAWS OF 2009, TO REVISE THE PURPOSES FOR WHICH THE PROCEEDS OF BONDS AUTHORIZED TO BE ISSUED FOR THE GULF COAST CAMPUSES OF THE UNIVERSITY OF SOUTHERN MISSISSIPPI MAY BE USED; TO EXTEND UNTIL JULY 1, 2015, THE AUTHORITY TO ISSUE STATE GENERAL OBLIGATION BONDS FOR CERTAIN PURPOSES; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 1, Chapter 557, Laws of 2009, is amended as follows:

Section 1. (1) As used in this section, the following words shall have the meanings ascribed herein unless the context clearly requires otherwise:

(a) "Accreted value" of any bond means, as of any date of computation, an amount equal to the sum of (i) the stated initial value of such bond, plus (ii) the interest accrued thereon from the issue date to the date of computation at the rate, compounded semiannually, that is necessary to produce the approximate yield to maturity shown for bonds of the same maturity.

(b) "State" means the State of Mississippi.

(c) "Commission" means the State Bond Commission.

(2) (a) (i) A special fund, to be designated as the "2009 IHL Capital Improvements Fund," is created within the State Treasury. The fund shall be maintained by the State Treasurer as a separate and special fund, separate and apart from the General Fund of the state. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned or investment earnings on amounts in the fund shall be deposited into such fund.

(ii) Monies deposited into the fund shall be disbursed, in the discretion of the Department of Finance and

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Administration, with the approval of the Board of Trustees of State Institutions of Higher Learning on those projects related to the universities under its management and control to pay the costs of capital improvements, renovation and/or repair of existing facilities, furnishings and/or equipping facilities for public facilities as hereinafter described:

NAME	PROJECT	AMOUNT ALLOCATED
Alcorn State University.....		\$ 2,500,000.00
Repair and renovation of campus buildings and facilities, repair, renovation, replacement and improvement of campus infrastructure and continuation/ completion of previously authorized projects.....	\$2,500,000.00	
Delta State University.....		\$ 3,300,000.00
Repair and renovation of campus buildings and facilities, repair, renovation, replacement and improvement of campus infrastructure and continuation/ completion of previously authorized projects.....	\$3,300,000.00	
Jackson State University.....		\$ 3,600,000.00
Repair and renovation of campus buildings and facilities, repair, renovation, replacement and improvement of campus infrastructure and continuation/ completion of previously authorized projects.....	\$3,600,000.00	

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Mississippi University for Women.....	\$ 1,500,000.00
Repair and renovation of campus buildings and facilities, repair, renovation, replacement and improvement of campus infrastructure including fire suppression systems and continuation/ completion of previously authorized projects.....	\$1,500,000.00
Mississippi State University.....	\$ 4,700,000.00
Repair and renovation of campus buildings and facilities, repair, renovation, replacement and improvement of campus infrastructure and continuation/ completion of previously authorized projects.....	\$4,700,000.00
Mississippi State University/Division of Agriculture, Forestry and Veterinary Medicine.....	\$ 3,500,000.00
Repair and renovation of campus buildings and facilities, repair, renovation, replacement and improvement of campus infrastructure and continuation/ completion of previously authorized projects.....	\$3,500,000.00
Mississippi Valley State University.....	\$ 2,500,000.00

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Repair and renovation of campus buildings and facilities, repair, renovation, replacement and improvement of campus infrastructure and continuation/ completion of previously authorized projects.....	\$2,500,000.00	
University of Mississippi.....		\$ 4,700,000.00
Repair and renovation of campus buildings and facilities, repair, renovation, replacement and improvement of campus infrastructure and continuation/ completion of previously authorized projects.....	\$4,700,000.00	
University of Mississippi Medical Center.		\$ 2,500,000.00
Repair and renovation of campus buildings and facilities, repair, renovation, replacement and improvement of campus infrastructure and continuation/ completion of previously authorized projects.....	\$2,500,000.00	
University of Southern Mississippi.....		\$ 4,700,000.00

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Repair and renovation of campus buildings and facilities, repair, renovation, replacement and improvement of campus infrastructure and continuation/ completion of previously authorized projects.....	\$4,700,000.00	
University of Southern Mississippi/Gulf Coast Campuses.....		\$ 1,000,000.00
* * * <u>Purchase of a</u> <u>research vessel</u> <u>for the Gulf Coast</u> <u>Research Laboratory...</u>	\$1,000,000.00	
IHL Education and Research Center.....		\$ 500,000.00
Repair and renovation of campus buildings and facilities, repair, renovation, replacement and improvement of campus infrastructure and continuation/ completion of previously authorized projects.....	\$ 500,000.00	
TOTAL		\$35,000,000.00

(b) (i) Amounts deposited into such special fund shall be disbursed to pay the costs of projects described in paragraph (a) of this subsection. If any monies in such special fund are not used within four (4) years after the date the proceeds of the bonds authorized under this section are deposited into the special fund, then the institution of higher learning for which any unused monies are allocated under paragraph (a) of this subsection shall provide an accounting of such unused monies to the commission. Promptly after the commission has certified, by resolution duly adopted, that the projects described in paragraph (a) of this subsection shall have been completed, abandoned, or cannot be completed in a timely fashion, any amounts remaining in such special fund shall be

applied to pay debt service on the bonds issued under this section, in accordance with the proceedings authorizing the issuance of such bonds and as directed by the commission.

(ii) Monies in the special fund may be used to reimburse reasonable actual and necessary costs incurred by the Department of Finance and Administration, acting through the Bureau of Building, Grounds and Real Property Management, in administering or providing assistance directly related to a project described in paragraph (a) of this subsection. An accounting of actual costs incurred for which reimbursement is sought shall be maintained for each project by the Department of Finance and Administration, Bureau of Building, Grounds and Real Property Management. Reimbursement of reasonable actual and necessary costs for a project shall not exceed two percent (2%) of the proceeds of bonds issued for such project. Monies authorized for a particular project may not be used to reimburse administrative costs for unrelated projects.

(c) The Department of Finance and Administration, acting through the Bureau of Building, Grounds and Real Property Management, is expressly authorized and empowered to receive and expend any local or other source funds in connection with the expenditure of funds provided for in this subsection. The expenditure of monies deposited into the special fund shall be under the direction of the Department of Finance and Administration, and such funds shall be paid by the State Treasurer upon warrants issued by such department, which warrants shall be issued upon requisitions signed by the Executive Director of the Department of Finance and Administration, or his designee.

(3) (a) (i) A special fund, to be designated as the "2009 Bureau of Building State-Owned Buildings Discretionary Fund" is created within the State Treasury. The fund shall be maintained by the State Treasurer as a separate and special fund, separate and apart from the General Fund of the state. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned or investment earnings on amounts in the fund shall be deposited into such fund.

(ii) Monies deposited into the fund shall be disbursed, in the discretion of the Department of Finance and Administration, to pay the costs of site improvements, general weatherization, demolition and roofing, environmental,

mechanical, electrical and structural repairs required for state-owned facilities, repair and renovation of state-owned facilities necessary for compliance with the Americans with Disabilities Act, purchase and installation of necessary furniture and equipment, completion of previously authorized projects, costs associated with the state's Enterprise Resource Planning System, and payment of lease-purchase agreements; however, of the money authorized to be deposited into the fund Five Hundred Thousand Dollars (\$500,000.00) shall be allocated to the Mississippi Sports Hall of Fame, Two Hundred Fifty Thousand Dollars (\$250,000.00) shall be allocated for the Fallen Officers Monument and Three Million Seven Hundred Fifty Thousand Dollars (\$3,750,000.00) shall be allocated for repair and renovation and Phase I of construction of improvements and additions to Caylor-White and Walters Halls at Delta State University.

(b) Amounts deposited into such special fund shall be disbursed to pay the costs of the projects described in paragraph (a) of this subsection. Promptly after the commission has certified, by resolution duly adopted, that the projects described in paragraph (a) of this subsection shall have been completed, abandoned, or cannot be completed in a timely fashion, any amounts remaining in such special fund shall be applied to pay debt service on the bonds issued under this section, in accordance with the proceedings authorizing the issuance of such bonds and as directed by the commission.

(c) The Department of Finance and Administration, acting through the Bureau of Building, Grounds and Real Property Management, is expressly authorized and empowered to receive and expend any local or other source funds in connection with the expenditure of funds provided for in this subsection. The expenditure of monies deposited into the special fund shall be under the direction of the Department of Finance and Administration, and such funds shall be paid by the State Treasurer upon warrants issued by such department, which warrants shall be issued upon requisitions signed by the Executive Director of the Department of Finance and Administration, or his designee.

(4) (a) (i) A special fund, to be designated as the "2009 Community and Junior Colleges Capital Improvements Fund" is created within the State Treasury. The fund shall be maintained by the State Treasurer as a separate and special

fund, separate and apart from the General Fund of the state. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned or investment earnings on amounts in the fund shall be deposited to the credit of the fund. Monies in the fund may not be used or expended for any purpose except as authorized under this act.

(ii) Monies deposited into the fund shall be disbursed as follows:

1. Two Million Dollars (\$2,000,000.00) shall be disbursed, in the discretion of the Department of Finance and Administration, to pay the costs of preplanning, construction, furnishing and equipping of a new building and related facilities to house the State Board for Community and Junior Colleges in Jackson, Mississippi;

2. One Million One Hundred Fifty Thousand Dollars (\$1,150,000.00) shall be disbursed, in the discretion of the Department of Finance and Administration, to pay the costs of construction, furnishing and equipping of dormitories at Coahoma Community College;

3. One Million Six Hundred Thousand Dollars (\$1,600,000.00) shall be disbursed, in the discretion of the Department of Finance and Administration, to pay the costs of repair and renovation of dormitories at Mississippi Delta Community College;

4. Two Hundred Fifty Thousand Dollars (\$250,000.00) shall be disbursed, in the discretion of the Department of Finance and Administration, to pay the costs of repair, renovation, replacement and improvement of buildings and related facilities at the Greenville Higher Education Center/ Mississippi Delta Community College; and

5. The remainder of the monies in the special fund shall be disbursed to pay the costs of acquisition of real property, construction of new facilities, equipping and furnishing facilities, including furniture and technology equipment and infrastructure, and addition to or renovation of existing facilities for community and junior college campuses as recommended by the State Board for Community and Junior Colleges and shall be disbursed to community and junior colleges according to the formula used for such purposes in Section 1(5), Chapter 506, Laws of 2008.

(b) Amounts deposited into such special fund shall be disbursed to pay the costs of projects described in paragraph (a) of this subsection. If any monies in such special fund are not used within four (4) years after the date the proceeds of the bonds authorized under this section are deposited into the special fund, then the community college or junior college for which any such monies are allocated under paragraph (a) of this subsection shall provide an accounting of such unused monies to the commission. Promptly after the commission has certified, by resolution duly adopted, that the projects described in paragraph (a) of this section shall have been completed, abandoned, or cannot be completed in a timely fashion, any amounts remaining in such special fund shall be applied to pay debt service on the bonds issued under this section, in accordance with the proceedings authorizing the issuance of such bonds and as directed by the commission.

(c) The Department of Finance and Administration, acting through the Bureau of Building, Grounds and Real Property Management, is expressly authorized and empowered to receive and expend any local or other source funds in connection with the expenditure of funds provided for in this section. The expenditure of monies deposited into the special fund shall be under the direction of the Department of Finance and Administration, and such funds shall be paid by the State Treasurer upon warrants issued by such department, which warrants shall be issued upon requisitions signed by the Executive Director of the Department of Finance and Administration, or his designee.

(5) (a) (i) A special fund, to be designated as the "2009 Bureau of Building Department of Mental Health Discretionary Fund" is created within the State Treasury. The fund shall be maintained by the State Treasurer as a separate and special fund, separate and apart from the General Fund of the state. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned or investment earnings on amounts in the fund shall be deposited into such fund.

(ii) Monies deposited into the fund shall be disbursed, in the discretion of the Department of Finance and Administration, to pay the costs of site improvements, general weatherization, demolition and roofing, environmental, mechanical, electrical and structural repairs required for

facilities of the Department of Mental Health, repair and renovation of facilities of the Department of Mental Health necessary for compliance with the Americans with Disabilities Act, purchase and installation of necessary furniture and equipment and completion of previously authorized projects for the Department of Mental Health.

(b) Amounts deposited into such special fund shall be disbursed to pay the costs of the projects described in paragraph (a) of this subsection. Promptly after the commission has certified, by resolution duly adopted, that the projects described in paragraph (a) of this subsection shall have been completed, abandoned, or cannot be completed in a timely fashion, any amounts remaining in such special fund shall be applied to pay debt service on the bonds issued under this section, in accordance with the proceedings authorizing the issuance of such bonds and as directed by the commission.

(c) The Department of Finance and Administration, acting through the Bureau of Building, Grounds and Real Property Management, is expressly authorized and empowered to receive and expend any local or other source funds in connection with the expenditure of funds provided for in this subsection. The expenditure of monies deposited into the special fund shall be under the direction of the Department of Finance and Administration, and such funds shall be paid by the State Treasurer upon warrants issued by such department, which warrants shall be issued upon requisitions signed by the Executive Director of the Department of Finance and Administration, or his designee.

(6) (a) The commission, at one time, or from time to time, may declare by resolution the necessity for issuance of general obligation bonds of the State of Mississippi to provide funds for all costs incurred or to be incurred for the purposes described in subsections (2), (3), (4) and (5) of this section. Upon the adoption of a resolution by the Department of Finance and Administration* * * declaring the necessity for the issuance of any part or all of the general obligation bonds authorized by this section, the Department of Finance and Administration shall deliver a certified copy of its resolution or resolutions to the commission. Upon receipt of such resolution, the commission, in its discretion, may act as issuing agent, prescribe the form of the bonds, determine the appropriate method for sale of the bonds, advertise for

and accept bids or negotiate the sale of the bonds, issue and sell the bonds so authorized to be sold, and do any and all other things necessary and advisable in connection with the issuance and sale of such bonds. The total amount of bonds issued under this section shall not exceed Eighty-six Million Two Hundred Fifty Thousand Dollars (\$86,250,000.00). No bonds shall be issued under this section after July 1, * * * 2015.

(b) The proceeds of the bonds issued pursuant to this act shall be deposited into the following special funds in not more than the following amounts:

(i) The 2009 IHL Capital Improvements Fund created pursuant to subsection (2) of this section..... \$35,000,000.00.

(ii) The 2009 Bureau of Building State-Owned Buildings Discretionary Fund created pursuant to subsection (3) of this section..... \$34,000,000.00.

(iii) The 2009 Community and Junior Colleges Capital Improvements Fund created pursuant to subsection (4) of this section..... \$12,250,000.00.

(iv) The 2009 Bureau of Building Department of Mental Health Discretionary Fund created pursuant to subsection (5) of this section..... \$ 5,000,000.00.

(c) Any investment earnings on amounts deposited into the special funds created in subsections (2), (3), (4) and (5) of this section shall be used to pay debt service on bonds issued under this section, in accordance with the proceedings authorizing issuance of such bonds.

(7) The principal of and interest on the bonds authorized under this section shall be payable in the manner provided in this subsection. Such bonds shall bear such date or dates, be in such denomination or denominations, bear interest at such rate or rates (not to exceed the limits set forth in Section 75-17-101, Mississippi Code of 1972), be payable at such place or places within or without the State of Mississippi, shall mature absolutely at such time or times not to exceed twenty-five (25) years from date of issue, be redeemable before maturity at such time or times and upon such terms, with or without premium, shall bear such registration privileges, and shall be substantially in such form, all as shall be determined by resolution of the commission.

(8) The bonds authorized by this section shall be signed by the chairman of the commission, or by his facsimile signature, and the official seal of the commission shall be affixed thereto, attested by the secretary of the commission. The interest coupons, if any, to be attached to such bonds may be executed by the facsimile signatures of such officers. Whenever any such bonds shall have been signed by the officials designated to sign the bonds who were in office at the time of such signing but who may have ceased to be such officers before the sale and delivery of such bonds, or who may not have been in office on the date such bonds may bear, the signatures of such officers upon such bonds and coupons shall nevertheless be valid and sufficient for all purposes and have the same effect as if the person so officially signing such bonds had remained in office until their delivery to the purchaser, or had been in office on the date such bonds may bear. However, notwithstanding anything herein to the contrary, such bonds may be issued as provided in the Registered Bond Act of the State of Mississippi.

(9) All bonds and interest coupons issued under the provisions of this section have all the qualities and incidents of negotiable instruments under the provisions of the Uniform Commercial Code, and in exercising the powers granted by this section, the commission shall not be required to and need not comply with the provisions of the Uniform Commercial Code.

(10) The commission shall act as issuing agent for the bonds authorized under this section, prescribe the form of the bonds, determine the appropriate method for sale of the bonds, advertise for and accept bids or negotiate the sale of the bonds, issue and sell the bonds, pay all fees and costs incurred in such issuance and sale, and do any and all other things necessary and advisable in connection with the issuance and sale of such bonds. The commission is authorized and empowered to pay the costs that are incident to the sale, issuance and delivery of the bonds authorized under this section from the proceeds derived from the sale of such bonds. The commission may sell such bonds on sealed bids at public sale or may negotiate the sale of the bonds for such price as it may determine to be for the best interest of the State of Mississippi. All interest accruing on such bonds so issued shall be payable semiannually or annually.

If such bonds are sold by sealed bids at public sale, notice of the sale shall be published at least one time, not less than ten (10) days before the date of sale, and shall be so published in one or more newspapers published or having a general circulation in the City of Jackson, Mississippi, selected by the commission.

The commission, when issuing any bonds under the authority of this section, may provide that bonds, at the option of the State of Mississippi, may be called in for payment and redemption at the call price named therein and accrued interest on such date or dates named therein.

(11) The bonds issued under the provisions of this section are general obligations of the State of Mississippi, and for the payment thereof the full faith and credit of the State of Mississippi is irrevocably pledged. If the funds appropriated by the Legislature are insufficient to pay the principal of and the interest on such bonds as they become due, then the deficiency shall be paid by the State Treasurer from any funds in the State Treasury not otherwise appropriated. All such bonds shall contain recitals on their faces substantially covering the provisions of this subsection.

(12) Upon the issuance and sale of bonds under the provisions of this section, the commission shall transfer the proceeds of any such sale or sales to the special funds created in subsections (2), (3), (4) and (5) of this section in the amounts provided for in subsection (6)(b) of this section. The proceeds of such bonds shall be disbursed solely upon the order of the Department of Finance and Administration under such restrictions, if any, as may be contained in the resolution providing for the issuance of the bonds.

(13) The bonds authorized under this section may be issued without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions and things which are specified or required by this section. Any resolution providing for the issuance of bonds under the provisions of this section shall become effective immediately upon its adoption by the commission, and any such resolution may be adopted at any regular or special meeting of the commission by a majority of its members.

(14) The bonds authorized under the authority of this section may be validated in the Chancery Court of the First Judicial District of Hinds County, Mississippi, in the manner

and with the force and effect provided by Chapter 13, Title 31, Mississippi Code of 1972, for the validation of county, municipal, school district and other bonds. The notice to taxpayers required by such statutes shall be published in a newspaper published or having a general circulation in the City of Jackson, Mississippi.

(15) Any holder of bonds issued under the provisions of this section or of any of the interest coupons pertaining thereto may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights granted under this section, or under such resolution, and may enforce and compel performance of all duties required by this section to be performed, in order to provide for the payment of bonds and interest thereon.

(16) All bonds issued under the provisions of this section shall be legal investments for trustees and other fiduciaries, and for savings banks, trust companies and insurance companies organized under the laws of the State of Mississippi, and such bonds shall be legal securities which may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and political subdivisions for the purpose of securing the deposit of public funds.

(17) Bonds issued under the provisions of this section and income therefrom shall be exempt from all taxation in the State of Mississippi.

(18) The proceeds of the bonds issued under this section shall be used solely for the purposes herein provided, including the costs incident to the issuance and sale of such bonds.

(19) The State Treasurer is authorized, without further process of law, to certify to the Department of Finance and Administration the necessity for warrants, and the Department of Finance and Administration is authorized and directed to issue such warrants, in such amounts as may be necessary to pay when due the principal of, premium, if any, and interest on, or the accreted value of, all bonds issued under this section; and the State Treasurer shall forward the necessary amount to the designated place or places of payment of such bonds in ample time to discharge such bonds, or the interest thereon, on the due dates thereof.

(20) This section shall be deemed to be full and complete authority for the exercise of the powers herein granted, but this section shall not be deemed to repeal or to be in derogation of any existing law of this state.

SECTION 2. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

Senate Bill 2751

Description: Volunteer fire department; include within the scope of immunity under the Tort Claims Act.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: ** See Text

Chapter Number: 385

History of Actions:

1	01/21	(S)	Referred To Judiciary, Division A
2	01/31	(S)	Title Suff Do Pass
3	02/07	(S)	Passed {Vote}
4	02/08	(S)	Transmitted To House
5	02/20	(H)	Referred To Judiciary A
6	02/28	(H)	Title Suff Do Pass
7	03/07	(H)	Passed {Vote}
8	03/11	(H)	Transmitted To Senate
9	03/14	(S)	Enrolled Bill Signed
10	03/14	(H)	Enrolled Bill Signed
11	03/20		Approved by Governor

Code Section: A 011-0046-0001, A 011-0046-0017, A 045-0002-0001, A 095-0009-0001, A 045-0002-0021

----- Additional Information -----

Senate Committee: Judiciary, Division A

House Committee: Judiciary A

Principal Author: Jolly

Additional Authors: Browning, Chassaniol, Collins, Doty, Fillingane, Hale, Harkins, Hopson, Jackson (11th), Kirby, Lee, Massey, McDaniel, Montgomery, Parks, Smith, Stone, Ward, Watson

Title: AN ACT TO INCLUDE VOLUNTEER FIREFIGHTERS AND VOLUNTEER FIRE DEPARTMENTS WITHIN THE SCOPE OF PROTECTION FROM CLAIMS UNDER

THE TORT CLAIMS ACT; TO AMEND SECTION 11-46-1, MISSISSIPPI CODE OF 1972, TO REVISE DEFINITIONS; TO AMEND SECTION 11-46-17, MISSISSIPPI CODE OF 1972, TO MAKE TECHNICAL AND GRAMMATICAL CORRECTIONS; TO AMEND SECTION 95-9-1, MISSISSIPPI CODE OF 1972, TO MAKE A GRAMMATICAL CORRECTION; TO AMEND SECTION 45-2-1, MISSISSIPPI CODE OF 1972, TO CLARIFY THE ELIGIBILITY OF VOLUNTEER FIREFIGHTERS FOR BENEFITS UNDER THE DEATH BENEFITS TRUST FUND; TO AMEND SECTION 45-2-21, MISSISSIPPI CODE OF 1972, TO CONFORM THE WORDING FOR ELIGIBILITY FOR BENEFITS UNDER THE DISABILITY BENEFITS TRUST FUND; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI SB 2751

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Judiciary, Division A

By: Senator(s) Jolly, Browning, Chassaniol, Collins, Doty, Fillingane, Hale, Harkins, Hopson, Jackson (11th), Kirby, Lee, Massey, McDaniel, Montgomery, Parks, Smith, Stone, Ward, Watson

Senate Bill 2751

(As Sent to Governor)

AN ACT TO INCLUDE VOLUNTEER FIREFIGHTERS AND VOLUNTEER FIRE DEPARTMENTS WITHIN THE SCOPE OF PROTECTION FROM CLAIMS UNDER THE TORT CLAIMS ACT; TO AMEND SECTION 11-46-1, MISSISSIPPI CODE OF 1972, TO REVISE DEFINITIONS; TO AMEND SECTION 11-46-17, MISSISSIPPI CODE OF 1972, TO MAKE TECHNICAL AND GRAMMATICAL CORRECTIONS; TO AMEND SECTION 95-9-1, MISSISSIPPI CODE OF 1972, TO MAKE A GRAMMATICAL CORRECTION; TO AMEND SECTION 45-2-1, MISSISSIPPI CODE OF 1972, TO CLARIFY THE ELIGIBILITY OF VOLUNTEER FIREFIGHTERS FOR BENEFITS UNDER THE DEATH BENEFITS TRUST FUND; TO AMEND SECTION 45-2-21, MISSISSIPPI CODE OF 1972, TO CONFORM THE WORDING FOR ELIGIBILITY FOR BENEFITS UNDER THE DISABILITY BENEFITS TRUST FUND; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 11-46-1, Mississippi Code of 1972, is amended as follows:

11-46-1. As used in this chapter, the following terms shall have the meanings* * * ascribed unless the context otherwise requires:

(a) "Claim" means any demand to recover damages from a governmental entity as compensation for injuries.

(b) "Claimant" means any person seeking compensation under the provisions of this chapter, whether by administrative remedy or through the courts.

(c) "Board" means the Mississippi Tort Claims Board.

(d) "Department" means the Department of Finance and Administration.

(e) "Director" means the executive director of the department who is also the executive director of the board.

(f) "Employee" means any officer, employee or servant of the State of Mississippi or a political subdivision of the state, including elected or appointed officials and persons acting on behalf of the state or a political subdivision in any official capacity, temporarily or permanently, in the service of the state or a political subdivision whether with or without compensation, including firefighters who are members of a volunteer fire department that is a political subdivision. The term "employee" shall not mean a person or other legal entity while acting in the capacity of an independent contractor under contract to the state or a political subdivision;* * * and

(i) For purposes of the limits of liability provided for in Section 11-46-15, the term "employee" shall include _:

1. Physicians under contract to provide health services with the State Board of Health, the State Board of Mental Health or any county or municipal jail facility while rendering services under* * * the contract* * *;

2. Any physician, dentist or other health care practitioner employed by the University of Mississippi Medical Center (UMMC) and its departmental practice plans who is a faculty member and provides health care services only for patients at UMMC or its affiliated practice sites* * *;

3. Any physician, dentist or other health care practitioner employed by any university under the control of the Board of Trustees of State Institutions of Higher Learning who practices only on the campus of any university under the control of the Board of Trustees of State Institutions of Higher Learning* * *;

4. Any physician, dentist or other health care practitioner employed by the State Veterans Affairs Board and who provides health care services for patients for the State Veterans Affairs Board* * *; and

(ii) The term "employee"* * * also* * * includes Mississippi Department of Human Services licensed foster parents for the limited purposes of coverage under the Tort Claims Act as provided in Section 11-46-8.

(g) "Governmental entity" means* * * the state and political subdivisions* * *.

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(h) "Injury" means death, injury to a person, damage to or loss of property or any other injury that a person may suffer that is actionable at law or in equity.

(i) "Political subdivision" means any body politic or body corporate other than the state responsible for governmental activities only in geographic areas smaller than that of the state, including, but not limited to, any county, municipality, school district, volunteer fire department that is a chartered nonprofit corporation providing emergency services under contract with a county or municipality community hospital as defined in Section 41-13-10, * * * airport authority, or other instrumentality * * * of the state, whether or not * * * the body or instrumentality * * * has the authority to levy taxes or to sue or be sued in its own name.

(j) "State" means the State of Mississippi and any office, department, agency, division, bureau, commission, board, institution, hospital, college, university, airport authority or other instrumentality thereof, whether or not * * * the body or instrumentality * * * has the authority to levy taxes or to sue or be sued in its own name.

(k) "Law" means all species of law, including, but not limited to, any and all constitutions, statutes, case law, common law, customary law, court order, court rule, court decision, court opinion, court judgment or mandate, administrative rule or regulation, executive order, or principle or rule of equity.

SECTION 2. Section 11-46-17, Mississippi Code of 1972, is amended as follows:

11-46-17. (1) There is hereby created in the State Treasury a special fund to be known as the "Tort Claims Fund."

All * * * monies * * * that the Department of Finance and Administration * * * receives and * * * collects under the provisions of subsection (2) of this section and all * * * funds * * * that the Legislature * * * appropriates for use by the board in administering the provisions of this chapter shall be deposited in * * * the fund. All monies in the fund may be expended by the board for any and all purposes for which the board is authorized to expend funds under the provisions of this chapter. All interest earned from the investment of monies in the fund shall be credited to the fund. Monies

remaining in* * * the fund at the end of a fiscal year shall not lapse into the State General Fund.

(2) From and after July 1, 1993, each governmental entity other than political subdivisions shall participate in a comprehensive plan of self-insurance* * * or one or more policies of liability insurance or combination of the two, all to be administered by the Department of Finance and Administration.* * *The plan shall provide coverage to each of such governmental entities for every risk for which the board determines the respective governmental entities to be liable in the event of a claim or suit for injuries under the provisions of this chapter, including claims or suits for injuries from the use or operation of motor vehicles;* * * the board may allow* * * the plan to contain any reasonable limitations or exclusions not contrary to Mississippi state statutes or case law as are normally included in commercial liability insurance policies generally available to governmental entities.* * *The plan may also provide coverage for liabilities outside the provisions of this chapter, including, but not limited to, liabilities arising from Sections 1983 through 1987 of Title 42 of the United States Code and liabilities from actions brought in foreign jurisdictions, and the board shall establish limits of coverage for such liabilities. Each governmental entity participating in the plan shall make payments to the board in such amounts, times and manner determined by the board as the board deems necessary to provide sufficient funds to be available for payment by the board of* * * the costs* * *it incurs in providing coverage for the governmental entity. Each governmental entity of the state other than the political subdivisions thereof participating in the plan procured by the board shall be issued by the board a certificate of coverage whose form and content shall be determined by the board but which shall have the effect of certifying that, in the opinion of the board, each of such governmental entities is adequately insured.

* * * Before July 1, 1993, the Board of Trustees of State Institutions of Higher Learning may provide* * * liability coverage for each university, department, trustee, employee, volunteer, facility and activity as the board of trustees, in its discretion, shall determine advisable. If liability coverage, either through insurance policies or self-insurance retention is in effect, immunity from suit shall be waived only to the limit of liability established by* * * the insurance or

self-insurance program. From and after July 1, 1993, liability coverage established by the board of trustees must conform to the provisions of this section and must receive approval from the board. Should the board reject* * * a plan, the board of trustees shall participate in the liability program for state agencies established by the board.

(3) All political subdivisions shall, from and after October 1, 1993, obtain* * * a policy or policies of insurance, establish* * * self-insurance reserves, or provide a combination of* * * insurance and reserves as necessary to cover all risks of claims and suits for which political subdivisions may be liable under this chapter;* * * a political subdivision shall not be required to obtain pollution liability insurance. However, this shall not limit any cause of action against* * * a political subdivision relative to limits of liability under the Tort Claims Act.* * * The policy or policies of insurance or* * * self-insurance may contain any reasonable limitations or exclusions not contrary to Mississippi state statutes or case law as are normally included in commercial liability insurance policies generally available to political subdivisions. All* * * the plans of insurance* * * or reserves or combination of insurance and reserves shall be submitted for approval to the board. The board shall issue a certificate of coverage to each political subdivision whose plan* * * it approves in the same manner as provided in subsection (2) of this section. Whenever any political subdivision fails to obtain the board's approval of* * * its plan* * *, the political subdivision shall act in accordance with the rules and regulations of the board and obtain a satisfactory plan of insurance* * * or reserves or combination of insurance and reserves to be approved by the board.

(4) Any governmental entity* * * may purchase liability insurance to cover claims in excess of the amounts provided for in Section 11-46-15 and may be sued by anyone in excess of the amounts provided for in Section 11-46-15 to the extent of* * * the excess insurance carried;* * * however,* * * the immunity from suit above the amounts provided for in Section 11-46-15 shall be waived only to the extent of* * * excess liability insurance carried.

(5) Any two (2) or more political subdivisions* * * may contract* * * to pool their liabilities as a group under this chapter.* * * The pooling agreements and contracts may

provide for the purchase of one or more policies of liability insurance* * * or the establishment of self-insurance reserves or a combination of insurance and reserves and shall be subject to approval by the board in the manner provided in subsections (2) and (3) of this section.

(6) The board shall have subrogation rights against a third party for amounts paid out of any plan of self-insurance administered by* * * the board pursuant to this section* * * on behalf of a governmental entity that is not a political subdivision as a result of damages caused under circumstances creating a cause of action in favor of such governmental entity against a third party. The board shall deposit in the Tort Claims Fund all monies received in connection with the settlement or payment of any claim, including proceeds from the sale of salvage.

SECTION 3. Section 95-9-1, Mississippi Code of 1972, is amended as follows:

95-9-1. (1) For the purposes of this section, unless the context otherwise requires:

(a) "Qualified volunteer" means any person who freely provides services, goods or the use of real or personal property or equipment, without any compensation or charge, to any volunteer agency in connection with a volunteer activity. For purposes of this chapter, reimbursement of actual expenses, including travel expenses, necessarily incurred in the discharge of a member's duties, insurance coverage and workers' compensation coverage of volunteers, shall not be considered monetary compensation.

(b) "Volunteer agency" means any department, institution, community volunteer organization or any nonprofit corporation designated 501(c)(3) by the United States Internal Revenue Service, except an agency established primarily for the recreational benefit of its stockholders or members. Volunteer agency shall also include any volunteer firefighter association which is eligible to be designated as a nonprofit corporation under 501(c)(3) by the United States Internal Revenue Service.

(c) "Volunteer activity" means any activity within the scope of any project, program or other activity regularly sponsored by a volunteer agency with the intent to effect a charitable purpose* * * or other public benefit, including, but not limited to, fire protection, rescue services, the

enhancement of the cultural, civic, religious, educational, scientific or economic resources of the community or equine activity as provided in* * * Section 95-11-1 et seq.

(2) A qualified volunteer shall not be held vicariously liable for the negligence of another in connection with or as a consequence of his volunteer activities.

(3) A qualified volunteer who renders assistance to a participant in, or a recipient, consumer or user of the services or benefits of a volunteer activity shall not be liable for any civil damages for any personal injury or property damage caused to a person as a result of any acts or omissions committed in good faith except:

(a) Where the qualified volunteer engages in acts or omissions which are intentional, willful, wanton, reckless or grossly negligent; or

(b) Where the qualified volunteer negligently operates a motor vehicle, aircraft, boat or other powered mode of conveyance.

SECTION 4. Section 45-2-1, Mississippi Code of 1972, is amended as follows:

45-2-1. (1) Whenever used in this section, the term:

(a) "Covered individual" means a law enforcement officer or firefighter, including volunteer firefighters, as defined in this section when employed by an employer as defined in this section; it does not include employees of independent contractors.* * *

(b) "Employer" means a state board, commission, department, division, bureau or agency, or a county, municipality or other political subdivision of the state, which employs, appoints or otherwise engages the services of covered individuals.

(c) "Fire fighter" means an individual who is trained for the prevention and control of loss of life and property from fire or other emergencies, who is assigned to fire-fighting activity, and is required to respond to alarms and perform emergency actions at the location of a fire, hazardous materials or other emergency incident.

(d) "Law enforcement officer" means any lawfully sworn officer or employee of the state or any political subdivision of the state whose duties require the officer or employee to investigate, pursue, apprehend, arrest, transport or

maintain custody of persons who are charged with, suspected of committing, or convicted of a crime, whether the officer is on regular duty on full-time status, an auxiliary or reserve officer, or is serving on a temporary or part-time status.

(2) (a) The Department of Public Safety shall make a payment, as provided in this section, in the amount of Sixty-five Thousand Dollars (\$65,000.00) when a law enforcement officer, while engaged in the performance of the person's official duties, is accidentally or intentionally killed or receives accidental or intentional bodily injury that results in the loss of the covered individual's life, provided that the killing is not the result of suicide and that the bodily injury is not intentionally self-inflicted.

(b) The Department of Public Safety shall make a payment, as provided in this section, in the amount of Sixty-five Thousand Dollars (\$65,000.00) when a fire fighter, while engaged in the performance of the person's official duties, is accidentally or intentionally killed or receives accidental or intentional bodily injury that results in loss of the covered individual's life, provided that the killing is not the result of suicide and that the bodily injury is not intentionally self-inflicted.

(c) The payment provided for in this subsection shall be made to the beneficiary who was designated in writing by the covered individual, signed by the covered individual and delivered to the employer during the covered individual's lifetime. If no such designation is made, then the payment shall be made to the surviving child or children and spouse in equal portions, and if there is no surviving child or spouse, then to the parent or parents. If a beneficiary is not designated and there is no surviving child, spouse or parent, then the payment shall be made to the covered individual's estate.

(d) The payment made in this subsection is in addition to any workers' compensation or pension benefits and is exempt from the claims and demands of creditors of the covered individual.

(3) (a) There is established in the State Treasury a special fund to be known as the Law Enforcement Officers and Fire Fighters Death Benefits Trust Fund. The trust fund shall be funded by an initial appropriation of Two Hundred Thousand Dollars (\$200,000.00), and shall be comprised of

any additional funds made available by the Legislature or by donation, contribution, gift or any other source.

(b) The State Treasurer shall invest the monies of the trust fund in any of the investments authorized for the funds of the Public Employees' Retirement System under Section 25-11-121, and those investments shall be subject to the limitations prescribed by Section 25-11-121.

(c) Unexpended amounts remaining in the trust fund at the end of the state fiscal year shall not lapse into the State General Fund, and any income earned on amounts in the trust fund shall be deposited to the credit of the trust fund.

(4) The Department of Public Safety shall be responsible for the management of the trust fund and the disbursement of death benefits authorized under this section. The Department of Public Safety shall adopt rules and regulations necessary to implement and standardize the payment of death benefits under this section, to administer the trust fund created by this section and to carry out the purposes of this section.

SECTION 5. Section 45-2-21, Mississippi Code of 1972, is amended as follows:

45-2-21. (1) Whenever used in this section, the term:

(a) "Covered individual" means a law enforcement officer or firefighter, including volunteer firefighters, as defined in this section while actively engaged in protecting the lives and property of the citizens of this state when employed by an employer as defined in this section; it does not include employees of independent contractors.

(b) "Employer" means a state board, commission, department, division, bureau, or agency, or a county, municipality or other political subdivision of the state, which employs, appoints or otherwise engages the services of covered individuals.

(c) "Firefighter" means an individual who is trained for the prevention and control of loss of life and property from fire or other emergencies, who is assigned to fire-fighting activity, and is required to respond to alarms and perform emergency actions at the location of a fire, hazardous materials or other emergency incident.

(d) "Law enforcement officer" means any lawfully sworn officer or employee of the state or any political subdivision

of the state whose duties require the officer or employee to investigate, pursue, apprehend, arrest, transport or maintain custody of persons who are charged with, suspected of committing, or convicted of a crime.

(2) (a) The Attorney General's office shall make a monthly disability benefit payment equal to thirty-four percent (34%) of the covered individual's regular base salary at the time of injury when a covered individual, while engaged in the performance of the individual's official duties, is accidentally or intentionally injured in the line of duty as a direct result of a single incident. The benefit shall be payable for the period of time the covered individual is physically unable to perform the duties of the covered individual's employment, not to exceed twelve (12) total payments for any one (1) injury. Chronic or repetitive injury is not covered. Benefits made available under this section shall be in addition to any workers' compensation benefits and shall be limited to the difference between the amount of workers' compensation benefits and the amount of the covered individual's regular base salary. Compensation under this section shall not be awarded where a penal violation committed by the covered individual contributed to the disability or the injury was intentionally self-inflicted.

(b) Payments made under this subsection are exempt from the claims and demands of creditors of the covered individual.

(3) (a) There is established in the State Treasury a special fund to be known as the Law Enforcement Officers and Fire Fighters Disability Benefits Trust Fund. The trust fund shall be funded by any funds made available by the Legislature or by donation, contribution, gift or any other source.

(b) The State Treasurer shall invest the monies of the trust fund in any of the investments authorized for the funds of the Public Employees' Retirement System under Section 25-11-121, and those investments shall be subject to the limitations prescribed by Section 25-11-121.

(c) Unexpended amounts remaining in the trust fund at the end of the state fiscal year shall not lapse into the State General Fund, and any income earned on amounts in the trust fund shall be deposited to the credit of the trust fund.

(4) The Attorney General's office shall be responsible for the management of the trust fund and the disbursement

of disability benefits authorized under this section. The Attorney General shall adopt rules and regulations necessary to implement and standardize the payment of disability benefits under this section, to administer the trust fund created by this section and to carry out the purposes of this section. The Attorney General's office may expend up to ten percent (10%) of the monies in the trust fund for the administration and management of the trust fund and carrying out the purposes of this section.

SECTION 6. This act shall take effect and be in force from and after its passage; volunteer fire departments shall have until July 1, 2013, to obtain and have approved the insurance policies or self-insurance reserves or combination thereof required for political subdivisions under the Tort Claims Act.

Mississippi Legislature

2013 Regular Session

Senate Bill 2754

Description: Environmental Quality; maintain directory of certified electronic recyclers and require state agencies to use those listed.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2013

Chapter Number: 351

History of Actions:

1 01/21 (S) Referred To Environment Prot, Cons and
Water Res

2 02/05 (S) Title Suff Do Pass Comm Sub

3 02/06 (S) Committee Substitute Adopted

4 02/06 (S) Passed {Vote}

5 02/07 (S) Transmitted To House

6 02/21 (H) Referred To Conservation and Water

Resources

7 02/28 (H) Title Suff Do Pass

8 03/01 (H) Passed {Vote}

9 03/01 (H) Motion to Reconsider Entered (DeLano,
Upshaw, Clark)

10 03/05 (H) Motion to Reconsider Tabled

11 03/05 (H) Transmitted To Senate

12 03/11 (S) Enrolled Bill Signed

13 03/11 (H) Enrolled Bill Signed

14 03/18 Approved by Governor

----- **Additional Information** -----

Senate Committee: Environment Prot, Cons and Water Res

House Committee: Conservation and Water Resources

Principal Author: Massey

Title: AN ACT TO REQUIRE THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO MAINTAIN A DIRECTORY OF CERTIFIED ELECTRONIC RECYCLERS; TO REQUIRE STATE AGENCIES TO USE CERTIFIED ELECTRONIC RECYCLERS FOR DISPOSAL OF E-WASTE AND RECYCLABLE ELECTRONIC EQUIPMENT; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Environment Prot, Cons and Water Res

By: Senator(s) Massey

Senate Bill 2754

(As Sent to Governor)

AN ACT TO REQUIRE THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO MAINTAIN A DIRECTORY OF CERTIFIED ELECTRONIC RECYCLERS; TO REQUIRE STATE AGENCIES TO USE CERTIFIED ELECTRONIC RECYCLERS FOR DISPOSAL OF E-WASTE AND RECYCLABLE ELECTRONIC EQUIPMENT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. As used in this act:

(a) "Electronics" means a personal computer, computer component, audio player, videocassette player, facsimile machine, copy machine, cellular telephone, wireless paging device, or any electronic item containing an intact or broken cathode-ray tube. An electronic item containing a cathode-ray tube includes a television, computer monitor, or any other cathode-ray tube monitor or display device.

(b) "Recycler" means a person who uses, reuses or reclaims obsolete electronic equipment and associated materials.

SECTION 2. (1) The Department of Environmental Quality shall develop a program to encourage all electronic recyclers to become certified by demonstrating to an accredited, independent third-party auditor that they meet specific standards to safely recycle and manage electronic equipment.

(2) The department shall maintain a directory of recyclers meeting the accredited certification standards of Responsible Recycling Practices (R2) and the e-Stewards Standards and any recyclers who have been certified by an accredited, independent certification auditor listed by the ANSI-ASQ National Accreditation Board (ANAB) as an organization that certifies recyclers to available recycling standards.

(3) State agencies shall use a certified recycler on the directory for the disposal of agency electronics.

2013 GENERAL LAWS OF MISSISSIPPI SB 2754

(4) The Department of Environmental Quality and state agencies shall comply with this section no later than July 1, 2014.

(5) This section does not apply to the donation of electronics to public schools, state agencies, local governments or nonprofit organizations.

SECTION 3. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

Senate Bill 2769

Description: Agricultural aviation; extend repealer on safety marking requirements for certain anemometer towers.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: Passage

Chapter Number: 329

History of Actions:

1	01/21	(S)	Referred To Agriculture
2	01/31	(S)	Title Suff Do Pass As Amended
3	02/12	(S)	Amended
4	02/12	(S)	Passed As Amended {Vote}
5	02/14	(S)	Transmitted To House
6	02/21	(H)	Referred To Agriculture
7	02/26	(H)	Title Suff Do Pass
8	02/28	(H)	Passed {Vote}
9	03/01	(H)	Transmitted To Senate
10	03/04	(S)	Enrolled Bill Signed
11	03/04	(H)	Enrolled Bill Signed
12	03/11		Approved by Governor

Amendments:

[S] Committee Amendment No 1 *Adopted* Voice Vote

Code Section: A 061-0019-0001

----- Additional Information -----

Senate Committee: Agriculture

House Committee: Agriculture

Principal Author: Simmons (13th)

Title: AN ACT TO AMEND SECTION 61-19-1, MISSISSIPPI CODE OF 1972, TO EXTEND THE REPEALER ON SAFETY MARKING REQUIREMENTS FOR CERTAIN ANEMOMETER TOWERS; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Agriculture

By: Senator(s) Simmons (13th)

Senate Bill 2769

(As Sent to Governor)

AN ACT TO AMEND SECTION 61-19-1, MISSISSIPPI CODE OF 1972, TO EXTEND THE REPEALER ON SAFETY MARKING REQUIREMENTS FOR CERTAIN ANEMOMETER TOWERS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 61-19-1, Mississippi Code of 1972, is amended as follows:

61-19-1. (1) For purposes of this section, the term anemometer means an instrument for measuring and recording the speed of the wind. For purposes of this section, the term anemometer tower means a structure, including all guy wires and accessory facilities, on which an anemometer is mounted for the purposes of documenting whether a site has wind resources sufficient for the operation of a wind turbine generator.

(2) Any anemometer tower that is fifty (50) feet in height above the ground or higher, that is located outside the exterior boundaries of any municipality, and whose appearance is not otherwise mandated by state or federal law shall be marked, painted, flagged, or otherwise constructed to be recognizable in clear air during daylight hours. Any anemometer tower that was erected before July 1, 2011, shall be marked as required in this section within one (1) year after July 1, 2011. Any anemometer tower that is erected on or after July 1, 2011, shall be marked as required in this section at the time it is erected. Marking required under this section includes marking the anemometer tower, guy wires, and accessory facilities as follows:

(a) The top one-third (1/3) of the anemometer tower shall be painted in equal, alternating bands of aviation orange and white, beginning with orange at the top of the tower and ending with orange at the bottom of the marked portion of the tower;

2013 GENERAL LAWS OF MISSISSIPPI SB 2769

(b) Two (2) marker balls shall be attached to and evenly spaced on each of the outside guy wires;

(c) The area surrounding each point where a guy wire is anchored to the ground shall have a contrasting appearance with any surrounding vegetation. If the adjacent land is grazed, the area surrounding the anchor point shall be fenced. For purposes of this section, the term, area surrounding the anchor point, means an area not less than sixty-four (64) square feet whose outer boundary is at least four (4) feet from the anchor point; and

(d) One or more seven-foot safety sleeves shall be placed at each anchor point and shall extend from the anchor point along each guy wire attached to the anchor point.

A violation of this section is a misdemeanor.

(3) This section shall stand repealed on July 1,

** * **

2017

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SECTION 2. This act shall take effect and be in force from and after its passage.

Mississippi Legislature

2013 Regular Session

Senate Bill 2779

Description: School districts under conservatorship; provide for special election to fill vacant school board positions.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: VRA

Chapter Number: 363

History of Actions:

1	01/21	(S)	Referred To Education
2	01/29	(S)	Title Suff Do Pass
3	01/30	(S)	Passed {Vote}
4	01/31	(S)	Transmitted To House
5	02/01	(H)	Referred To Education
6	02/27	(H)	Title Suff Do Pass
7	03/06	(H)	Passed {Vote}
8	03/07	(H)	Transmitted To Senate
9	03/11	(S)	Enrolled Bill Signed
10	03/11	(H)	Enrolled Bill Signed
11	03/18		Approved by Governor

Code Section: A 037-0017-0013, A 037-0005-0019, A 037-0007-0207

----- Additional Information -----

Senate Committee: Education

House Committee: Education

Principal Author: Tollison

Title: AN ACT TO AMEND SECTIONS 37-17-13, 37-5-19 AND 37-7-207, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR A SPECIAL SCHOOL BOARD ELECTION IN SCHOOL DISTRICTS UNDER CONSERVATORSHIP WHERE THERE ARE NO REMAINING SCHOOL BOARD MEMBERS TO FILL A VACANCY; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Education

By: Senator(s) Tollison

Senate Bill 2779

(As Sent to Governor)

AN ACT TO AMEND SECTIONS 37-17-13, 37-5-19 AND 37-7-207, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR A SPECIAL SCHOOL BOARD ELECTION IN SCHOOL DISTRICTS UNDER CONSERVATORSHIP WHERE THERE ARE NO REMAINING SCHOOL BOARD MEMBERS TO FILL A VACANCY; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 37-17-13, Mississippi Code of 1972, is amended as follows:

[Until the date Laws of 2012, Chapter 525, is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended, this section shall read as follows:]

37-17-13. (1) Whenever the Governor declares a state of emergency in a school district in response to a certification by the State Board of Education and the Commission on School Accreditation made under Section 37-17-6(11)(b), the State Board of Education, in addition to any actions taken under Section 37-17-6, may abolish the school district and assume control and administration of the schools formerly constituting the district, and appoint a conservator to carry out this purpose under the direction of the State Board of Education. In such case, the State Board of Education shall have all powers which were held by the previously existing school board, and the previously existing superintendent of schools or county superintendent of education, including, but not limited to, those enumerated in Section 37-7-301, and the authority to request tax levies from the appropriate governing authorities for the support of the schools and to receive and expend the tax funds as provided by Section 37-57-1 et seq., and Section 37-57-105 et seq.

(2) When a school district is abolished under this section, loans from the School District Emergency Assistance Fund may be made by the State Board of Education for the use and benefit of the schools formerly constituting the district

in accordance with the procedures set forth in Section 37-17-6(14) for such loans to the district. The abolition of a school district under this section shall not impair or release the property of that school district from liability for the payment of the loan indebtedness, and it shall be the duty of the appropriate governing authorities to levy taxes on the property of the district so abolished from year to year according to the terms of the indebtedness until same shall be fully paid.

(3) After a school district is abolished under this section, at such time as the State Board of Education determines that the impairments have been substantially corrected, the State Board of Education shall reconstitute, reorganize or change or alter the boundaries of the previously existing district; however, no partition or assignment of territory formerly included in the abolished district to one or more other school districts may be made by the State Board of Education without the consent of the school board of the school district to which such territory is to be transferred, such consent to be spread upon its minutes. At that time, the State Board of Education, in appropriate cases, shall notify the appropriate governing authority or authorities of its action and request them to provide for the election or appointment of school board members and a superintendent or superintendents to govern the district or districts affected, in the manner provided by law. In the event the statute provides that vacancies in an all-elected membership of the school board will be filled by appointment by the remaining members of the school board and no members of the school board remain in office, the Governor shall call a special election to fill the vacancies. In such situations, the Governor will set the date of the special election and said election will be conducted by the county election commission.

[From and after the date Laws of 2012, Chapter 525, is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended, this section shall read as follows:]

37-17-13. (1) Whenever the Governor declares a state of emergency in a school district in response to a certification by the State Board of Education and the Commission on School Accreditation made under Section 37-17-6(11)(b), the State Board of Education, in addition to any actions taken under Section 37-17-6, may abolish the school district and

assume control and administration of the schools formerly constituting the district, and appoint a conservator to carry out this purpose under the direction of the State Board of Education. In such case, the State Board of Education shall have all powers which were held by the previously existing school board, and the previously existing superintendent of schools or county superintendent of education, including, but not limited to, those enumerated in Section 37-7-301, and the authority to request tax levies from the appropriate governing authorities for the support of the schools and to receive and expend the tax funds as provided by Section 37-57-1 et seq., and Section 37-57-105 et seq.

(2) When a school district is abolished under this section, loans from the School District Emergency Assistance Fund may be made by the State Board of Education for the use and benefit of the schools formerly constituting the district in accordance with the procedures set forth in Section 37-17-6(14) for such loans to the district. The abolition of a school district under this section shall not impair or release the property of that school district from liability for the payment of the loan indebtedness, and it shall be the duty of the appropriate governing authorities to levy taxes on the property of the district so abolished from year to year according to the terms of the indebtedness until same shall be fully paid.

(3) After a school district is abolished under this section, at such time as the State Board of Education determines that the impairments have been substantially corrected, the State Board of Education shall reconstitute, reorganize or change or alter the boundaries of the previously existing district; however, no partition or assignment of territory formerly included in the abolished district to one or more other school districts may be made by the State Board of Education without the consent of the school board of the school district to which such territory is to be transferred, such consent to be spread upon its minutes. At that time, the State Board of Education, in appropriate cases, shall notify the appropriate governing authority or authorities of its action and request them to provide for the election or appointment of school board members in the manner provided by law. In the event the applicable statute provides that vacancies in an all-elected membership of the school board will be filled by appointment by the remaining members of the school board and

no members of the school board remain in office, the Governor shall call a special election to fill the vacancies. In such situations, the Governor will set the date of the special election and said election will be conducted by the county election commission. The State Board of Education shall also request the governing authority or authorities to provide for the appointment of a superintendent or superintendents to govern the reconstituted, reorganized or changed district or districts, which such appointed position shall apply in all school districts including those school districts in which the position of superintendent was previously an elected office. A board member or superintendent in office at the time the Governor declares a state of emergency in a school district to be abolished shall not be eligible to serve in that office for the school district reconstituted, reorganized or changed after the Governor declares that an emergency no longer exists.

SECTION 2. Section 37-5-19, Mississippi Code of 1972, is amended as follows:

37-5-19. Vacancies in the membership of the county board of education shall be filled by appointment, within sixty (60) days after the vacancy occurs, by the remaining members of the county board of education. Said appointee shall be selected from the qualified electors of the district in which the vacancy occurs, and shall serve until the first Monday of January next succeeding the next general election, at which general election a member shall be elected to fill the remainder of the unexpired term in the same manner and with the same qualifications applicable to the election of a member for the full term. In the event the school district is under conservatorship and no members of the county board of education remain in office, the Governor shall call a special election to fill the vacancies and said election will be conducted by the county election commission.

In the event the vacancy occurs more than five (5) months prior to the next general election and the remaining members of the county board of education are unable to agree upon an individual to be appointed, any two (2) of the remaining members may certify such disagreement to the county election commission. Upon the receipt of such a certificate by the county election commission, or any member thereof, the commission shall hold a special election to fill the vacancy, which said

election, notice thereof and ballot shall be controlled by the laws concerning special elections to fill vacancies in county or county district offices. The person elected at such a special election shall serve for the remainder of the unexpired term.

SECTION 3. Section 37-7-207, Mississippi Code of 1972, is amended as follows:

37-7-207. (1) All school districts reconstituted or created under the provisions of Article 1 of this chapter, and which lie wholly within one (1) county, but not including municipal separate and countywide districts, shall be governed by a board of five (5) trustees. The first board of trustees of such districts shall be appointed by the county board of education, and the original appointments shall be so made that one (1) trustee shall be appointed to serve until the first Saturday of March following such appointments, one (1) for one (1) year longer, one (1) for two (2) years longer, one (1) for three (3) years longer, and one (1) for four (4) years longer. After such original appointments, the trustees of such school districts shall be elected by the qualified electors of such school districts in the manner provided for in Sections 37-7-223 through 37-7-229, with each trustee to be elected for a term of five (5) years. The five (5) members of the board of trustees of such consolidated school district shall be elected from special trustee election districts by the qualified electors thereof, as herein provided. The board of trustees of any such consolidated school district shall apportion the consolidated school district into five (5) special trustee election districts. The board of trustees of such school district shall place upon its minutes the boundaries determined for the new five (5) trustee election districts. The board of trustees shall thereafter publish the same in a newspaper of general circulation within said school district for at least three (3) consecutive weeks; and after having given notice of publication and recording the same upon the minutes of the board of trustees, said new district lines shall thereafter be effective.

On the first Tuesday after the first Monday in November, in any year in which any consolidated school district shall elect to utilize the authority to create single member election districts, an election shall be held in each such district in this state for the purpose of electing the board of trustees

of such district. At said election the member of the said board from District One shall be elected for a term of one (1) year, the member from District Two shall be elected for a term of two (2) years, the member from District Three shall be elected for a term of three (3) years, the member from District Four shall be elected for a term of four (4) years, and the member from District Five shall be elected for a term of five (5) years. Thereafter, members shall be elected at general elections as vacancies occur for terms of five (5) years each. Trustees elected from single member election districts as provided above shall otherwise be elected as provided for in Sections 37-7-223 through 37-7-229. All members of the said board of trustees shall take office on the first Monday of January following the date of their election. All vacancies which may occur during a term shall be filled by appointment of the consolidated school district trustees, but the person so appointed shall serve only until the next general election following such appointment, at which time a person shall be elected for the remainder of the unexpired term at the same time and in the same manner as a trustee is elected for the full term then expiring. The person so elected to the unexpired term shall take office immediately. Said appointee shall be selected from the qualified electors of the district in which the vacancy occurs. In the event the school district is under conservatorship and no members of the board of trustees remain in office, the Governor shall call a special election to fill the vacancies and the said election will be conducted by the county election commission.

(2) All school districts reconstituted and created under the provisions of Article 1 of this chapter, which embrace territory in two (2) or more counties, but not including municipal separate school districts, shall be governed by a board of five (5) trustees. In making the original appointments, the several county boards of education shall appoint the trustee or trustees to which the territory in such county is entitled, and, by agreement between the county boards concerned, one (1) person shall be appointed to serve until the first Saturday of March following, one (1) for one (1) year longer, one (1) for two (2) years longer, one (1) for three (3) years longer and one (1) for four (4) years longer. Thereafter, such trustees shall be elected as is provided for in Sections 37-7-223 through 37-7-229, for a term of five (5) years. The five (5) members of the board of trustees of

such line consolidated school district shall be elected from special trustee election districts by the qualified electors thereof, as herein provided. The existing board of trustees of such line consolidated school district shall apportion the line consolidated school district into five (5) special trustee election districts. The board of trustees shall place upon its minutes the boundaries determined for the new five (5) trustee election districts. The board of trustees shall thereafter publish the same in a newspaper of general circulation within said school district for at least three (3) consecutive weeks; and after having given notice of publication and recording the same upon the minutes of the board of trustees, said new district lines shall thereafter be effective. Provided, however, that in any line consolidated school district encompassing two (2) or more counties created pursuant to Laws, 1953, Extraordinary Session, Chapter 12, Section 8, in which, as a condition precedent to the creation of said district, each county belonging thereto was contractually guaranteed to always have at least one (1) representative on said board, in order that said condition precedent may be honored and guaranteed, in any year in which the board of trustees of such line consolidated school district does not have at least one (1) member from each county or part thereof forming such district, the board of trustees in such district shall be governed by a board of a sufficient number of trustees to fulfill this guarantee, five (5) of whom shall be elected from the five (5) special trustee election districts which shall be as nearly equal as possible and one (1) member trustee appointed at large from each county not having representation on the elected board. In such cases, the board of supervisors of each county shall make written agreement to guarantee the manner of appointment of at least one (1) representative from each county in the district, placing such written agreement on the minutes of each board of supervisors in each county.

On the first Tuesday after the first Monday in November, in any year in which any line consolidated school district shall elect to utilize the authority to create single member election districts, an election shall be held in each such district in this state for the purpose of electing the board of trustees of such district. At said election the member of the said board from District One shall be elected for a term of one (1) year, the member from District Two shall be elected for a term of two (2) years, the member from District

Three shall be elected for a term of three (3) years, the member from District Four shall be elected for a term of four (4) years, and the member from District Five shall be elected for a term of five (5) years. Thereafter, members shall be elected at general elections as vacancies occur for terms of five (5) years each. Trustees elected from single member election districts as provided above shall otherwise be elected as provided for in Sections 37-7-223 through 37-7-229. All members of the said board of trustees shall take office on the first Monday of January following the date of their election. In all elections, the trustee elected shall be a resident and qualified elector of the district entitled to the representation upon the board, and he shall be elected only by the qualified electors of such district. All vacancies which may occur during a term of office shall be filled by appointment of the consolidated line school district trustees, but the person so appointed shall serve only until the next general election following such appointment, at which time a person shall be elected for the remainder of the unexpired term at the same time and in the same manner as the trustee is elected for the full term then expiring. The person so elected to the unexpired term shall take office immediately. In the event the school district is under conservatorship and no members of the board of trustees remain in office, the Governor shall call a special election to fill the vacancies and the said election will be conducted by the county election commission.

SECTION 4. The Attorney General of the State of Mississippi shall submit this act, immediately upon approval by the Governor, or upon approval by the Legislature subsequent to a veto, to the Attorney General of the United States or to the United States District Court for the District of Columbia in accordance with the provisions of the Voting Rights Act of 1965, as amended and extended.

SECTION 5. This act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended.

Mississippi Legislature

2013 Regular Session

Senate Bill 2781

Description: Licensed vessel pilots; limit liability of pilots and trainees.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2013

Chapter Number: 328

History of Actions:

- 1 01/21 (S) Referred To Ports and Marine Resources
- 2 01/28 (S) Title Suff Do Pass
- 3 02/12 (S) Amended
- 4 02/12 (S) Passed As Amended {Vote}
- 5 02/14 (S) Transmitted To House
- 6 02/21 (H) Referred To Ports, Harbors and Airports
- 7 02/28 (H) Title Suff Do Pass
- 8 02/28 (H) Passed {Vote}
- 9 03/01 (H) Transmitted To Senate
- 10 03/04 (S) Enrolled Bill Signed
- 11 03/04 (H) Enrolled Bill Signed
- 12 03/11 Approved by Governor

Amendments:

[S] Amendment No 1 *Adopted* Voice Vote

----- Additional Information -----

Senate Committee: Ports and Marine Resources

House Committee: Ports, Harbors and Airports

Principal Author: Wiggins

Additional Authors: Watson, Gollott, Hill, Polk, Harkins, Sojourner, Parks, Moran, Tindell, Smith, Gandy

Title: AN ACT TO CREATE NEW SECTION 59-1-42, MISSISSIPPI CODE OF 1972, TO LIMIT AND REGULATE THE LIABILITY OF CERTAIN VESSEL PILOTS; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Ports and Marine Resources

By: Senator(s) Wiggins, Watson, Gollott, Hill, Polk,
Harkins, Sojourner, Parks, Moran, Tindell, Smith, Gandy

Senate Bill 2781
(As Sent to Governor)

AN ACT TO CREATE NEW SECTION 59-1-42, MISSISSIPPI CODE OF 1972, TO LIMIT AND REGULATE THE LIABILITY OF CERTAIN VESSEL PILOTS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. The purpose of this act is to stimulate and preserve maritime commerce on the pilotage grounds of the state by limiting and regulating the liability of certain pilots and to maintain pilotage fees at reasonable amounts as a component of this state's pilotage regulatory system, and is essential to the economic viability of maritime commerce and serves the public interest.

SECTION 2. The following shall be codified as Section 59-1-42, Mississippi Code of 1972:

59-1-42. Licensed pilot liability. (1) A licensed pilot or pilot trainee providing pilot services pursuant to Section 59-1-41 shall not be liable for more than Five Thousand Dollars (\$5,000.00) for damage or loss caused by the licensed pilot's or pilot trainee's error, omission, fault, or neglect in the performance of the pilot services, except for the following:

(a) Damage or loss that arises because of the willful misconduct or reckless disregard for safety by the licensed pilot or pilot trainee; or

(b) An act or omission relating to the ownership and operation of a pilot boat unless the pilot boat is directly involved in pilot services other than the transportation of licensed pilots.

(2) This section does not exempt a vessel or its owner or operator from liability for damage or loss caused by the vessel to a person or property on the grounds that:

(a) The vessel was piloted by a licensed pilot or pilot trainee pursuant to Section 59-1-41; or

(b) The damage or loss was caused by the error, omission, fault, or neglect of a licensed pilot or pilot trainee.

(3) In a proceeding brought against a licensed pilot or pilot trainee providing pilot services pursuant to Section 59-1-41, for an act or omission for which liability is limited as provided by this section and in which other claims are made or anticipated with respect to the same act or omission, the court shall dismiss the proceedings as to the licensed pilot or pilot trainee.

(4) Liability under this section shall also be limited as follows:

(a) A pilot or pilot trainee is not liable directly or as a member of an organization of pilots for any claim that:

(i) Arises from an act or omission of another pilot or pilot trainee or organization of pilots; and

(ii) Relates directly or indirectly to pilot services.

(b) An organization of pilots shall not be liable for any damages caused by a licensed pilot's or pilot trainee's error, omission, fault or neglect in the performance of pilotage services.

(5) For the sole purpose of occasions when this act is applicable as a defense to liability by a licensed pilot or pilot trainee, the licensed pilot or pilot trainee providing pilot services pursuant to Section 59-1-41; asserting the defense shall be considered to have been acting as the servant of the vessel, its owner and its operator.

(6) This section does not apply to a vessel operator, captain, master or pilot that is:

(a) Not required pursuant to Section 59-1-41;

(b) Operating solely under a federal piloting license or;

(c) Operating an American vessel laden with coast-wise cargo not destined for a foreign port.

(7) This section shall apply to all causes of action that occur on or after July 1, 2013.

SECTION 3. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

Senate Bill 2786

Description: Mississippi Proprietary School and College Registration Law; revise.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Three/Fifths

Effective date: July 1, 2013

Chapter Number: 333

History of Actions:

1	01/21	(S)	Referred To Universities and Colleges; Accountability, Efficiency, Transparency
2	01/31	(S)	DR - TSDPCS: UC To AC
3	02/04	(S)	Title Suff Do Pass Comm Sub
4	02/06	(S)	Committee Substitute Adopted
5	02/06	(S)	Passed {Vote}
6	02/07	(S)	Transmitted To House
7	02/21	(H)	Referred To Universities and Colleges
8	02/27	(H)	Title Suff Do Pass
9	02/28	(H)	Passed {Vote}
10	03/01	(H)	Transmitted To Senate
11	03/05	(S)	Enrolled Bill Signed
12	03/05	(H)	Enrolled Bill Signed
13	03/12		Approved by Governor

Code Section: A 075-0060-0003, A 075-0060-0004, A 075-0060-0005, A 075-0060-0011, A 075-0060-0019, A 075-0060-0023, A 075-0060-0025

----- Additional Information -----

Senate Committee: Universities and Colleges, Accountability, Efficiency, Transparency

House Committee: Universities and Colleges

Principal Author: Polk

Title: AN ACT TO AMEND SECTION 75-60-3, MISSISSIPPI CODE OF 1972, TO AMEND THE MISSISSIPPI PROPRIETARY SCHOOL AND COLLEGE REGISTRATION LAW TO REVISE AND ADD CERTAIN DEFINITIONS; TO AMEND SECTION 75-60-4,

MISSISSIPPI CODE OF 1972, TO REVISE THE MEMBERSHIP QUALIFICATIONS OF THE COMMISSIONERS; TO AMEND SECTION 75-60-5, MISSISSIPPI CODE OF 1972, TO EXEMPT SCHOOLS OR COURSES OF INSTRUCTION UNDER THE JURISDICTION OF THE BOARD OF NURSING TO THIS LAW; TO DELETE THE PROVISION OF LAW ALLOWING NATIONALLY ACCREDITED SCHOOLS TO FOLLOW NATIONAL STANDARDS IN LIEU OF STATE STANDARDS FOR HIRING AND TRAINING FACULTY; TO AMEND SECTION 75-60-11, MISSISSIPPI CODE OF 1972, TO DELETE THE PROVISION OF LAW ALLOWING NATIONALLY ACCREDITED SCHOOLS TO SUBMIT NATIONAL ACCREDITATION STATUS IN LIEU OF OTHER APPLICATION REQUESTS UNDER THIS LAW; TO AMEND SECTION 75-60-19, MISSISSIPPI CODE OF 1972, TO REQUIRE CERTAIN NOTICE TO STUDENTS ABOUT THEIR RIGHT TO FILE A COMPLAINT WITH THE COMMISSION; TO AMEND SECTION 75-60-23, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT ALL PERSONS INVOLVED IN RECRUITMENT MUST REGISTER WITH THE COMMISSION AS AN AGENT; TO AMEND SECTION 75-60-25, MISSISSIPPI CODE OF 1972, TO ADD CAMPUS LOCATION AS A REQUIREMENT FOR BUSINESS CARDS FOR AGENTS; TO CODIFY SECTION 75-60-45, MISSISSIPPI CODE OF 1972, TO SET FORTH MINIMUM QUALIFICATIONS FOR CLASSROOM INSTRUCTORS; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Universities and Colleges; Accountability, Efficiency,
Transparency

By: Senator(s) Polk

Senate Bill 2786
(As Sent to Governor)

AN ACT TO AMEND SECTION 75-60-3, MISSISSIPPI CODE OF 1972, TO AMEND THE MISSISSIPPI PROPRIETARY SCHOOL AND COLLEGE REGISTRATION LAW TO REVISE AND ADD CERTAIN DEFINITIONS; TO AMEND SECTION 75-60-4, MISSISSIPPI CODE OF 1972, TO REVISE THE MEMBERSHIP QUALIFICATIONS OF THE COMMISSIONERS; TO AMEND SECTION 75-60-5, MISSISSIPPI CODE OF 1972, TO EXEMPT SCHOOLS OR COURSES OF INSTRUCTION UNDER THE JURISDICTION OF THE BOARD OF NURSING TO THIS LAW; TO DELETE THE PROVISION OF LAW ALLOWING NATIONALLY ACCREDITED SCHOOLS TO FOLLOW NATIONAL STANDARDS IN LIEU OF STATE STANDARDS FOR HIRING AND TRAINING FACULTY; TO AMEND SECTION 75-60-11, MISSISSIPPI CODE OF 1972, TO DELETE THE PROVISION OF LAW ALLOWING NATIONALLY ACCREDITED SCHOOLS TO SUBMIT NATIONAL ACCREDITATION STATUS IN LIEU OF OTHER APPLICATION REQUESTS UNDER THIS LAW; TO AMEND SECTION 75-60-19, MISSISSIPPI CODE OF 1972, TO REQUIRE CERTAIN NOTICE TO STUDENTS ABOUT THEIR RIGHT TO FILE A COMPLAINT WITH THE COMMISSION; TO AMEND SECTION 75-60-23, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT ALL PERSONS INVOLVED IN RECRUITMENT MUST REGISTER WITH THE COMMISSION AS AN AGENT; TO AMEND SECTION 75-60-25, MISSISSIPPI CODE OF 1972, TO ADD CAMPUS LOCATION AS A REQUIREMENT FOR BUSINESS CARDS FOR AGENTS; TO CODIFY SECTION 75-60-45, MISSISSIPPI CODE OF 1972, TO SET FORTH MINIMUM QUALIFICATIONS FOR CLASSROOM INSTRUCTORS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 75-60-3, Mississippi Code of 1972, is amended as follows:

75-60-3. As used in this chapter:

(a) "Course of instruction" means the offering of instruction to individuals for a charge, fee or contribution of any kind, to a person or persons for the purpose of training or preparing such person(s) for a field of endeavor in a business, trade, technical or industrial occupation.

(b) "Program of study" means a* * * series of individual courses in an area of specialization for which a diploma, degree, certificate or other written evidence of proficiency or achievement is offered.

(c) "Agent" means any* * * person employed by an institution licensed by the commission, regardless of job title, job description, full-time or part-time employment status, who either directly or indirectly influences the decision of any prospective student to enroll for a fee in a course of instruction.

(d) "Person" means an individual, corporation, partnership, association or any other type of organization.

(e) "Board" means the* * * Mississippi Community College Board established in Section 37-4-3 et seq., Mississippi Code of 1972.

(f) "Commission" means the Commission on Proprietary School and College Registration established under this chapter.

(g) "Correspondence education" means a formal educational process under which the institution provides instructional materials, by mail or electronic transmission, including examinations on the materials, to students who are separated from the instructor. Interaction between the instructor and the student is limited, is not regular and substantive, and is primarily initiated by the student; courses are typically self-paced.

(h) "Distance education" means a formal educational process in which the majority of the instruction (interaction between students and instructors and among students) in a course occurs when students and instructors are not in the same place. Instruction may be synchronous or asynchronous. A distance education course may use the Internet; one-way and two-way transmissions through open broadcast, closed circuit, cable, microwave, broadband lines, fiber optics, satellite or wireless communications devices; audio conferencing; or video cassettes, DVDs and CD-ROMs if used as part of the distance learning course or program.

(i) "General education course" means a unit of learning that is nontechnical in nature and is a fundamental part of a program. The content is drawn from oral and written

communications, social studies, mathematics, natural sciences and the humanities.

(j) "Nontechnical course" means a unit of learning that is nontechnical in nature and includes general education courses, basic/college life skills and other related courses.

(k) "Occupational degree" means a credential awarded by a school upon successful completion of an associate degree program. This program shall contain a minimum of sixty percent (60%) technical course credits/clock hours.

(l) "Institution" means a proprietary school, career college, school person or other organization that offers programs that require registration in accordance with Section 75-60-5.

(m) "Technical course" means a unit of learning that yields skills, knowledge and understanding essential to the specific occupation for which the program is designed.

SECTION 2. Section 75-60-4, Mississippi Code of 1972, is amended as follows:

75-60-4. (1) The* * * Mississippi Community College Board shall appoint a "Commission on Proprietary School and College Registration" to be composed of five (5) qualified members, one (1) appointed from each of the five (5) Mississippi congressional districts existing on January 1, 1992. The membership of said commission shall be composed of persons who have held a teaching, managerial or other similar position with any public, private, trade, technical or other school; provided, however, that one (1) member of the commission shall be actively engaged in, or retired from, teaching, managerial or other similar position with a privately owned trade, technical or other school. The membership of said commission shall be appointed by the board within ninety (90) days of the passage of this chapter. In making the first appointments, two (2) members shall be appointed for three (3) years, two (2) members for four (4) years, and one (1) member for five (5) years. Thereafter, all members shall be appointed for a term of five (5) years. If one (1) of the members appointed by the board resigns or is otherwise unable to serve, a new member shall be appointed by the commission to fill the unexpired term. All five (5) members of the commission have full voting rights. The members shall not be paid for their services, but may be compensated for the expenses necessarily incurred in

the attendance at meetings or in performing other services for the commission at a rate prescribed under Section 25-3-69, Mississippi Code of 1972, plus actual expenses and mileage as provided by Section 25-3-41, Mississippi Code of 1972. Members of the commission shall annually elect a chairman from among its members who is not actively engaged with a privately owned trade or technical school.

(2) The* * * Mississippi Community College Board shall appoint such staff as may be required for the performance of the commission's duties and provide necessary facilities.

(3) The* * * Mississippi Community College Board shall levy only fees authorized in this chapter only in such amounts as may be required for the performance of the commission's duties.

(4) In addition to the fees authorized in this chapter, the* * * Mississippi Community College Board is authorized to levy and collect fees from proprietary schools and colleges (a) to recover the cost of audits, investigations and hearings relating to such institutions, and (b) to recover the cost of activities conducted under Section 73-15-25 relating to the accreditation of practical nursing programs.

(5) It shall be the purpose of the Commission on Proprietary School and College Registration to establish and implement the registration program as provided in this chapter. All controversies involving the registration of such schools shall be initially heard by a duly authorized hearing officer of the commission before whom a complete record shall be made. After the conclusion of the hearing, the duly authorized hearing officer of the commission shall make a recommendation to the commission as to the resolution of the controversies, and the commission, after considering the transcribed record and the recommendation of its hearing officer, shall make its decision which becomes final unless the school or college or other person involved shall appeal to the* * * Mississippi Community College Board, which appeal shall be on the record previously made before the commission's hearing officer except as may be provided by rules and regulations adopted by the* * * Mississippi Community College Board. All appeals from the* * * Mississippi Community College Board shall be on the record and shall be filed in the Chancery Court of the First Judicial District of Hinds County, Mississippi.

SECTION 3. Section 75-60-5, Mississippi Code of 1972, is amended as follows:

75-60-5. (1) The provisions of this chapter do not apply to the following categories of courses, schools or colleges:

(a) Tuition-free courses or schools conducted by employers exclusively for their own employees;

(b) Schools, colleges, technical institutes, community colleges, junior colleges or universities under the jurisdiction of the Board of Trustees of State Institutions of Higher Learning or the* * * Mississippi Community College Board;

(c) Schools or courses of instruction under the jurisdiction of the State Board of Cosmetology, State Board of Barber Examiners* * *, the State Board of Massage Therapy or the State Board of Nursing;

(d) Courses of instruction required by law to be approved or licensed, or given by institutions approved or licensed, by a state board or agency other than the Commission on Proprietary School and College Registration; however, a school so approved or licensed may apply to the Commission on Proprietary School and College Registration for a certificate of registration to be issued in accordance with the provisions of this chapter;

(e) Correspondence* * * education;

(f) Nonprofit private schools offering academic credits at primary or secondary levels, or conducting classes for exceptional education as defined by regulations of the State Department of Education;

(g) Private nonprofit colleges and universities or any private school offering academic credits at primary, secondary or postsecondary levels;

(h) Courses of instruction conducted by a public school district or a combination of public school districts;

(i) Courses of instruction conducted outside the United States;

(j) A school that offers only instruction in subjects that the Commission on Proprietary School and College Registration determines are primarily for a vocational, personal improvement or cultural purposes and that does not represent to the public

that its course of study or instruction will or may produce income for those who take that study or instruction;

(k) Courses conducted primarily on an individual tutorial basis, where not more than one (1) student is involved at any one time, except in those instances where the Commission on Proprietary School and College Registration determines that the course is for the purpose of preparing for a vocational objective;

(l) Kindergartens or similar programs for preschool-age children.

* * *

SECTION 4. Section 75-60-11, Mississippi Code of 1972, is amended as follows:

75-60-11. (1) The Commission on Proprietary School and College Registration shall issue a certificate of registration to an applicant of good reputation, offering one or more courses of instruction upon determining that the applicant has the facilities, resources and faculty to provide students with the kind of instruction that it proposes to offer. A certificate of registration shall be granted or denied within sixty (60) days of the receipt of the application therefor by the commission. If the commission has not completed its determination with respect to the issuance of the certificate of registration within such sixty-day period, it shall issue a temporary certificate to the applicant, which certificate is sufficient to meet the requirements of Section 75-60-13 until such time as determination is made. Any certificate issued by the commission is valid only for the institution and courses for which it is issued and does not cover other schools or branches operated by the owner. A certificate of registration is valid for two (2) years unless earlier revoked for cause by the commission. The commission shall adopt rules and regulations for administration of the registration process. The commission may cause an investigation to be made into the correctness of the information submitted in any application for registration. If the commission believes that false, misleading or incomplete information has been submitted to it in connection with any application for registration, the commission shall conduct a hearing on the matter and may withhold a certificate of registration upon finding that the applicant has failed to meet the standards for such certificate or has submitted false, misleading or incomplete

information to the commission. Application for a certificate of registration shall be made in writing to the commission on forms furnished by the commission. A certificate of registration is not transferable and shall be prominently displayed on the premises of an institution.

* * *

(* * * 2) The commission shall assign registration numbers to all schools registered with it. Schools shall display their registration numbers on all school publications and on all advertisements bearing the name of the school.

SECTION 5. Section 75-60-19, Mississippi Code of 1972, is amended as follows:

75-60-19. (1) The Commission on Proprietary School and College Registration may suspend, revoke or cancel a certificate of registration for any one (1) or any combination of the following causes:

(a) Violation of any provision of the sections of this chapter or any regulation made by the commission;

(b) The furnishing of false, misleading or incomplete information requested by the commission;

(c) The signing of an application or the holding of a certificate of registration by a person who has pleaded guilty or has been found guilty of a felony or has pleaded guilty or been found guilty of any other indictable offense;

(d) The signing of an application or the holding of a certificate of registration by a person who is addicted to the use of any narcotic drug, or who is found to be mentally incompetent;

(e) Violation of any commitment made in an application for a certificate of registration;

(f) Presentation to prospective students of misleading, false or fraudulent information relating to the course of instruction, employment opportunity, or opportunities for enrollment in accredited institutions of higher education after entering or completing courses offered by the holder of a certificate of registration;

(g) Failure to provide or maintain premises or equipment for offering courses of instruction in a safe and sanitary condition;

(h) Refusal by an agent to display his agent permit upon demand of a prospective student or other interested person;

(i) Failure to maintain financial resources adequate for the satisfactory conduct of courses of study as presented in the plan of operation or to retain a sufficient number and qualified staff of instruction; however nothing in this chapter shall require an instructor to be certificated by the Commission on Proprietary School and College Registration or to hold any type of post-high school degree;

(j) Offering training or courses of instruction other than those presented in the application; however, schools may offer special courses adapted to the needs of individual students where the special courses are in the subject field specified in the application;

(k) Accepting the services of an agent not licensed in accordance with Sections 75-60-23 through 75-60-37, inclusive;

(l) Conviction or a plea of nolo contendere on the part of any owner, operator or director of a registered school of any felony under Mississippi law or the law of another jurisdiction;

(m) Continued employment of a teacher or instructor who has been convicted of or entered a plea of nolo contendere to any felony under Mississippi law or the law of another jurisdiction;

(n) Incompetence of any owner or operator to operate a school.

(2) (a) Any person who believes he has been aggrieved by a violation of this section shall have the right to file a written complaint within two (2) years of the alleged violation. The commission shall maintain a written record of each complaint that is made. The commission shall also send to the complainant a form acknowledging the complaint and requesting further information if necessary and shall advise the director of the school that a complaint has been made and, where appropriate, the nature of the complaint.

(b) The commission shall within twenty (20) days of receipt of such written complaint commence an investigation of the alleged violation and shall, within ninety (90) days of the receipt of such written complaint, issue a written finding. The commission shall furnish such findings to the person who

filed the complaint and to the chief operating officer of the school cited in the complaint. If the commission finds that there has been a violation of this section, the commission shall take appropriate action.

(c) Schools shall disclose in writing to all prospective and current students their right to file a complaint with the commission.

(d) The existence of an arbitration clause in no way negates the student's right to file a complaint with the commission.

(*** * *** e) The commission may initiate an investigation without a complaint.

(3) **Hearing procedures.** (a) Upon a finding that there is good cause to believe that a school, or an officer, agent, employee, partner or teacher, has committed a violation of subsection (1) of this section, the commission shall initiate proceedings by serving a notice of hearing upon each and every such party subject to the administrative action. The school or such party shall be given reasonable notice of hearing, including the time, place and nature of the hearing and a statement sufficiently particular to give notice of the transactions or occurrences intended to be proved, the material elements of each cause of action and the civil penalties and/or administrative sanctions sought.

(b) Opportunity shall be afforded to the party to respond and present evidence and argument on the issues involved in the hearing including the right of cross-examination. In a hearing, the school or such party shall be accorded the right to have its representative appear in person or by or with counsel or other representative. Disposition may be made in any hearing by stipulation, agreed settlement, consent order, default or other informal method.

(c) The commission shall designate an impartial hearing officer to conduct the hearing, who shall be empowered to:

(i) Administer oaths and affirmations; and

(ii) Regulate the course of the hearings, set the time and place for continued hearings, and fix the time for filing of briefs and other documents; and

(iii) Direct the school or such party to appear and confer to consider the simplification of the issues by consent; and

(iv) Grant a request for an adjournment of the hearing only upon good cause shown.

The strict legal rules of evidence shall not apply, but the decision shall be supported by substantial evidence in the record.

(4) The commission, acting by and through its hearing officer, is hereby authorized and empowered to issue subpoenas for the attendance of witnesses and the production of books and papers at such hearing. Process issued by the commission shall extend to all parts of the state and shall be served by any person designated by the commission for such service. Where, in any proceeding before the hearing officer, any witness fails or refuses to attend upon a subpoena issued by the commission, refuses to testify, or refuses to produce any books and papers the production of which is called for by a subpoena, the attendance of such witness, the giving of his testimony or the production of the books and papers shall be enforced by any court of competent jurisdiction of this state in the manner provided for the enforcement of attendance and testimony of witnesses in civil cases in the courts of this state.

(5) **Decision after hearing.** The hearing officer shall make written findings of fact and conclusions of law, and shall also recommend in writing to the commission a final decision, including penalties. The hearing officer shall mail a copy of his findings of fact, conclusions of law and recommended penalty to the party and his attorney, or representative. The commission shall make the final decision, which shall be based exclusively on evidence and other materials introduced at the hearing. If it is determined that a party has committed a violation, the commission shall issue a final order and shall impose penalties in accordance with this section. The commission shall send by certified mail, return receipt requested, a copy of the final order to the party and his attorney, or representative. The commission shall, at the request of the school or such party, furnish a copy of the transcript or any part thereof upon payment of the cost thereof.

(6) **Civil penalties and administrative sanctions.** (a) A hearing officer may recommend, and the commission may impose, a civil penalty not to exceed Two Thousand Five Hundred Dollars (\$2,500.00) for any violation of this section. In the case of a second or further violation committed within the previous five (5) years, the liability shall be a civil penalty not to exceed Five Thousand Dollars (\$5,000.00) for each such violation.

(b) Notwithstanding the provisions of paragraph (a) of this subsection, a hearing officer may recommend and the commission may impose a civil penalty not to exceed Twenty-five Thousand Dollars (\$25,000.00) for any of the following violations: (i) operation of a school without a registration in violation of this chapter; (ii) operation of a school knowing that the school's registration has been suspended or revoked; (iii) use of false, misleading, deceptive or fraudulent advertising; (iv) employment of recruiters on the basis of a commission, bonus or quota, except as authorized by the commission; (v) directing or authorizing recruiters to offer guarantees of jobs upon completion of a course; (vi) failure to make a tuition refund when such failure is part of a pattern of misconduct; or (vii) violation of any other provision of this chapter, or any rule or regulation promulgated pursuant thereto, when such violation constitutes part of a pattern of misconduct which significantly impairs the educational quality of the program or programs being offered by the school. For each enumerated offense, a second or further violation committed within the previous five (5) years shall be subject to a civil penalty not to exceed Fifty Thousand Dollars (\$50,000.00) for each such violation.

(c) In addition to the penalties authorized in paragraphs (a) and (b) of this subsection, a hearing officer may recommend and the commission may impose any of the following administrative sanctions: (i) a cease and desist order; (ii) a mandatory direction; (iii) a suspension or revocation of a certificate of registration; (iv) a probation order; or (v) an order of restitution.

(d) The commission may suspend a registration upon the failure of a school to pay any fee, fine or penalty as required by this chapter unless such failure is determined by the commission to be for good cause.

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(e) All civil penalties, fines and settlements received shall accrue to the credit of the Commission on Proprietary School and College Registration.

(7) Any penalty or administrative sanction imposed by the commission under this section may be appealed by the school, college or other person affected to the* * * Mississippi Community College Board as provided in Section 75-60-4(3), which appeal shall be on the record previously made before the commission's hearing officer. All appeals from the* * * Mississippi Community College Board shall be on the record and shall be filed in the Chancery Court of the First Judicial District of Hinds County, Mississippi.

SECTION 6. Section 75-60-23, Mississippi Code of 1972, is amended as follows:

75-60-23. No person* * * employed by an institution licensed by the commission, regardless of job title, job description, full-time or part-time employment status, shall directly or indirectly influence the decision of any prospective student to enroll for a fee in a course of instruction* * * without first* * * securing a permit as an agent from the Commission on Proprietary School and College Registration. If the* * * person represents more than one (1)* * * institution, a separate permit shall be obtained for each* * * institution represented* * *. Agent permits shall only be issued to agents of* * * institutions that hold a certificate of registration* * * * issued by the commission.

SECTION 7. Section 75-60-25, Mississippi Code of 1972, is amended as follows:

75-60-25. The application for an agent permit shall be made on forms to be furnished by the Commission on Proprietary School and College Registration. Any agent permit applied for shall be granted or denied within sixty (60) days of the receipt of the application therefor by the commission. If the commission has not completed its determination with respect to the issuance of an agent permit within such sixty-day period, it shall issue a temporary agent permit to the applicant, which permit is sufficient to meet the requirements of Section 75-60-23 until such time as such determination is made. Upon approval for an agent permit, the commission shall issue a pocket card to the person, giving his name,* * * agent permit number and the name and* * * campus location of his employing school, and certifying that the person whose name

appears on the card is an authorized agent of the school. An agent permit is valid for one (1) year from the date on which it was issued.

SECTION 8. The following shall be codified as Section 75-60-45, Mississippi Code of 1972:

75-60-45. The commission shall not appoint instructors, but the commission may review and evaluate whether an instructor is qualified to teach a program of study as follows:

(1) Academic classes. Classroom instructors teaching general education courses shall hold at least a bachelor's degree with appropriate coursework in the teaching discipline from an accredited institution and one (1) of the following:

(a) A minimum of eighteen (18) semester hours of credit from an accredited institution in the subject area being taught; or

(b) A minimum of twelve (12) semester hours in methods and techniques of teaching.

(2) Technical classes. Classroom instructors teaching technical courses shall have at least a high-school diploma or an equivalent diploma and at least one (1) of the following:

(a) A degree, certificate or license in the subject area or a related field;

(b) A minimum of eighteen (18) semester hours of credit in mathematics, science or courses related to the subject area from an accredited institution; or

(c) A minimum of three (3) years' work experience in the technical area or a related field.

(3) Apprenticeship trade classes. Instructors of apprenticeship trades shall have the following qualifications and training:

(a) At least a high-school diploma or an equivalent diploma;

(b) A minimum of three (3) years' work experience above the students' level in the trade to be taught; and

(c) Recognized standing as a tradesman or specialist supported by evidence from previous employers.

SECTION 9. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

Senate Bill 2787

Description: MS Telephone Solicitation Act; extend repealer on.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Three/Fifths

Effective date: July 1, 2013

Chapter Number: 322

History of Actions:

- 1 01/21 (S) Referred To Energy
- 2 01/30 (S) Title Suff Do Pass
- 3 02/06 (S) Passed {Vote}
- 4 02/07 (S) Transmitted To House
- 5 02/21 (H) Referred To Public Utilities
- 6 02/27 (H) Title Suff Do Pass
- 7 02/28 (H) Passed {Vote}
- 8 03/01 (H) Transmitted To Senate
- 9 03/04 (S) Enrolled Bill Signed
- 10 03/04 (H) Enrolled Bill Signed
- 11 03/07 Approved by Governor

Code Section: R 077-0003-0701, R 077-0003-0703, R 077-0003-0705, R 077-0003-0707, R 077-0003-0709, R 077-0003-0711, R 077-0003-0713, R 077-0003-0715, R 077-0003-0717, R 077-0003-0719, R 077-0003-0721, R 077-0003-0723, R 077-0003-0725, R 077-0003-0727, R 077-0003-0729, R 077-0003-0731, R 077-0003-0733, R 077-0003-0735, A 077-0003-0737

----- Additional Information -----

Senate Committee: Energy

House Committee: Public Utilities

Principal Author: Burton

Title: AN ACT TO REENACT SECTIONS 77-3-701 THROUGH 77-3-735, MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR THE MISSISSIPPI TELEPHONE SOLICITATION ACT; TO AMEND SECTION 77-3-737, MISSISSIPPI CODE OF 1972,

TO EXTEND THE REPEALER ON THE MISSISSIPPI TELEPHONE SOLICITATION ACT; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI SB 2787

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Energy

By: Senator(s) Burton

Senate Bill 2787

(As Sent to Governor)

AN ACT TO REENACT SECTIONS 77-3-701 THROUGH 77-3-735, MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR THE MISSISSIPPI TELEPHONE SOLICITATION ACT; TO AMEND SECTION 77-3-737, MISSISSIPPI CODE OF 1972, TO EXTEND THE REPEALER ON THE MISSISSIPPI TELEPHONE SOLICITATION ACT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 77-3-701, Mississippi Code of 1972, is reenacted as follows:

77-3-701. This article shall be known and may be cited as the "Mississippi Telephone Solicitation Act."

SECTION 2. Section 77-3-703, Mississippi Code of 1972, is reenacted as follows:

77-3-703. (1) The use of the telephone to make all types of solicitations to consumers is pervasive. This article gives consumers a tool by which to object to telemarketing calls as these communications can amount to a nuisance, an invasion of privacy, and can create a health and safety risk for certain consumers who maintain their phone service primarily for emergency medical situations.

(2) Any calls made for political purposes shall be governed by Section 23-15-875.

SECTION 3. Section 77-3-705, Mississippi Code of 1972, is reenacted as follows:

77-3-705. For the purposes of this article, the following words and terms shall have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) "Consumer" means a person to whom is assigned in the State of Mississippi a residential telephone line and corresponding telephone number, who uses the residential line primarily for residential purposes.

(b) "Caller identification service" means a type of telephone service which permits a telephone subscriber to view the telephone number and name of the person or entity making an incoming telephone call.

(c) "Telephone solicitor" means any person, firm, entity, organization, partnership, association, corporation, charitable entity, or a subsidiary or affiliate thereof, who engages in any type of telephone solicitation on his or her own behalf or through representatives, independent contractors, salespersons, agents, automated dialing systems or machines or other individuals or systems.

(d) "Telephone solicitation" means any voice communication over the telephone line of a consumer for the purpose of:

(i) Encouraging the purchase or rental of, or investment in, property; or

(ii) Soliciting a sale of any consumer goods or services, or an extension of credit for consumer goods or services.

(e) "Commission" means the Mississippi Public Service Commission.

(f) "Doing business in this state" refers to businesses which conduct telephone solicitations from any location to consumers located in this state.

(g) "Consumer goods or services" means any real property or any tangible or intangible personal property which is normally used for personal, family or household purposes, including, without limitation, any property intended to be attached to, or installed in, any real property, and any services related to the property.

(h) "Established business relationship" means a prior or existing relationship formed by a voluntary two-way communication between a person or entity and a consumer, with or without an exchange of consideration, on the basis of an inquiry, application, purchase or transaction by the consumer, which relationship is currently existing or was terminated within six (6) months of the telephone solicitation; however, the act of purchasing consumer goods or services under an extension of credit does not create an existing business relationship between the consumer and the entity extending credit to the consumer for such purchase. The term does not

include the situation wherein the consumer has merely been subject to a telephone solicitation by or at the behest of the telephone solicitor within the six (6) months immediately preceding the contemplated telephone solicitation.

(i) "Charitable organization" means any person or entity holding itself out to be established for any benevolent, educational, philanthropic, humane, scientific, patriotic, social welfare or advocacy, public health, environmental or conservation, civic or other eleemosynary purpose or for the benefit of law enforcement personnel, fire fighters, or any other persons who protect the public safety, or for any other purpose where a charitable appeal is the basis of the solicitation.

SECTION 4. Section 77-3-707, Mississippi Code of 1972, is reenacted as follows:

77-3-707. (1) Except as otherwise provided pursuant to Section 77-3-709 or 77-3-711, a telephone solicitor may not make or cause to be made any telephone solicitation to any consumer in this state unless the telephone solicitor has purchased the "no-calls" database from the commission or the entity under contract with the commission.

(2) Except as otherwise provided pursuant to Section 77-3-709 or 77-3-711, a telephone solicitor may not make or cause to be made any telephone solicitation to any consumer in this state who has given notice to the commission, or the entity under contract with the commission, of his or her objection to receiving telephone solicitations.

(3) The commission, or an entity under contract with the commission, shall establish and operate a "no-calls" database composed of a list of telephone numbers of consumers who have given notice of their objection to receiving telephone solicitations. The "no-calls" database may be operated by the commission or by another entity under contract with the commission.

(4) Each local exchange company and each competing local exchange carrier shall provide written notification on a semiannual basis to each of its consumers of the opportunity to provide notification to the commission or the entity under contract with the commission, that the consumer objects to receiving telephone solicitations. The notification must be disseminated at the option of the carrier, by television,

radio or newspaper advertisements, written correspondence, bill inserts or messages, a publication in the consumer information pages of the local telephone directory, or any other method not expressly prohibited by the commission.

SECTION 5. Section 77-3-709, Mississippi Code of 1972, is reenacted as follows:

77-3-709. The commission, in its discretion, may allow telephone solicitors to make telephone solicitations without requiring them to purchase the "no-calls" database, and regardless of whether a telephone solicitation may be made to a consumer who has given notice of his objection to receiving such solicitations, provided that it adopts a written policy incorporating the following criteria:

(a) The telephone solicitor must demonstrate to the commission that its proposed telephone solicitation is reasonably related to an established business relationship as defined in Section 77-3-705(h), or is being made in response to an invitation or notice from a consumer which clearly signifies that he is open to a contact being initiated;

(b) The telephone solicitation is to be made by a person or entity for the purpose of soliciting a contribution or donation to a bona fide nonprofit corporation, regardless of whether consumer goods or services will be provided to the consumer in return for the contribution or donation; or

(c) The consumer will not be telephoned for a telephone solicitation as defined in Section 77-3-705(d), but he will be telephoned for a bona fide religious or charitable purpose, including an invitation to attend an event or a request for a contribution or donation.

In all cases, the telephone solicitor must demonstrate that it will not use an automated dialing system or a method that will block or otherwise circumvent the consumer's use of a caller identification service.

In making its determination of whether to allow a telephone solicitation to be made under the policy which will include the limitations set forth in this section, the commission shall exercise due care in investigating previous conduct of the telephone solicitor seeking such authority. The commission may deny any telephone solicitor the privilege of making telephone solicitations under this section, notwithstanding

that any of the criteria set forth in this section have been met.

SECTION 6. Section 77-3-711, Mississippi Code of 1972, is reenacted as follows:

77-3-711. The provisions of this article shall not apply to:

(a) A person soliciting:

(i) Who does not make the major sales presentation during the telephone solicitation;

(ii) Without the intent to complete or obtain provisional acceptance of a sale during the telephone solicitation; or

(iii) Without the intent to complete, and who does not complete, the sales presentation during the telephone solicitation, but who completes the sales presentation at a later face-to-face meeting between the person soliciting and the prospective purchaser or consumer.

(b) A person who is a licensee under Chapter 35, Title 73, Mississippi Code of 1972, who is a resident of the State of Mississippi, and whose telephone solicitation is for the sole purpose of selling, exchanging, purchasing, renting, listing for sale or rent or leasing real estate in connection with his real estate license and not in conjunction with any other offer.

(c) A motor vehicle dealer as that term is defined in Section 63-17-55, who is a resident of the State of Mississippi and who maintains a current motor vehicle dealer's license issued by the Mississippi Motor Vehicle Commission, whose telephone solicitation is for the sole purpose of selling, offering to sell, soliciting or advertising the sale of motor vehicles in connection with his motor vehicle dealer's license and not in conjunction with any other offer.

(d) An agent as that term is defined in Section 83-17-1 whose telephone solicitation is for the sole purpose of soliciting, consulting, advising, or adjusting in the business of insurance.

(e) A broker-dealer, agent, or investment advisor registered under Chapter 71, Title 75, Mississippi Code of 1972, whose telephone solicitation is for the sole purpose of effecting or attempting to effect the purchase or sale

of securities or has the purpose of providing or seeking to provide investment or financial advice.

(f) A person calling on behalf of a charitable organization which is registered under Chapter 11, Title 79, Mississippi Code of 1972, whose telephone solicitation is for the sole purpose of soliciting for the charitable organization and who receives no compensation for his activities on behalf of the organization.

(g) A person calling on behalf of a newspaper of general circulation, whose telephone solicitation is for the sole purpose of soliciting a subscription to the newspaper from, or soliciting the purchase of advertising by, the consumer.

(h) A person calling on behalf of any supervised financial institution or parent, subsidiary or affiliate thereof. As used in this section, "supervised financial institution" means any commercial bank, trust company, savings and loan association, mutual savings bank, credit union, industrial loan company, small loan company, consumer finance lender, commercial finance lender or insurer, provided that the institution has a physical office located in the State of Mississippi and is subject to supervision by an official or agency of the State of Mississippi or of the United States.

(i) A person calling on behalf of a funeral establishment licensed under Section 73-11-41, cemetery or monument dealer, if the sole purpose of the telephone solicitation relates to services provided by the funeral or death related establishments in the course of its ordinary business.

(j) Any telephone solicitor who solicits a consumer with whom he has an established business relationship.

SECTION 7. Section 77-3-713, Mississippi Code of 1972, is reenacted as follows:

77-3-713. All telephone solicitors must register with the commission before conducting any telephone solicitations in the State of Mississippi.

SECTION 8. Section 77-3-715, Mississippi Code of 1972, is reenacted as follows:

77-3-715. The commission may promulgate rules and regulations necessary to effectuate this article, including, but not limited to, the following:

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(a) The methods by which consumers may give notice to the commission or its contractor of their objection to receive solicitations or revocation of the notice;

(b) The methods by which a notice of objection becomes effective and the effect of a change of telephone number on the notice;

(c) The methods by which objections and revocations are collected and added to the database;

(d) The methods by which a person or entity desiring to make telephone solicitations may obtain access to the database as required to avoid calling the telephone number of consumers included in the database;

(e) The process by which the database is updated, and the frequency of updates;

(f) The process by which telephone solicitors must register with the commission for the purpose of conducting telephonic solicitations in the state;

(g) The establishment of fees to be charged by the commission or its contractor to telephone solicitors for access to or for paper or electronic copies of the database on an annual basis;

(h) The establishment of a written policy which clearly articulates the circumstances under which the commission, in its discretion, may allow exceptions to the provisions of this article pursuant to Section 77-3-703; and

(i) All other matters relating to the database that the commission deems necessary.

SECTION 9. Section 77-3-717, Mississippi Code of 1972, is reenacted as follows:

77-3-717. If the Federal Trade Commission establishes a single national database of telephone numbers of consumers who object to receiving telephone solicitations, the commission must include the portion of the single national database that relates to the State of Mississippi in the database established under this article. Likewise, the commission shall make available the state's database to the Federal Trade Commission for inclusion in the national database.

SECTION 10. Section 77-3-719, Mississippi Code of 1972, is reenacted as follows:

77-3-719. Information contained in the database established under this article may be used and accessed only for the purpose of compliance with this article and shall not be otherwise subject to public inspection or disclosure.

SECTION 11. Section 77-3-721, Mississippi Code of 1972, is reenacted as follows:

77-3-721. All fees collected under the provisions of this article shall be deposited into a special fund which is created in the State Treasury to be expended by the commission for the implementation and administration of this article. At the end of each fiscal year, earned interest and unexpended monies remaining in the fund may not revert to any other fund of the state, but shall remain available for appropriations to administer this article. The Legislature shall appropriate annually from the fund the amount necessary for the administration of this article to the commission.

SECTION 12. Section 77-3-723, Mississippi Code of 1972, is reenacted as follows:

77-3-723. (1) Any person or entity who makes an authorized telephone solicitation to a consumer in this state shall announce clearly, at the beginning of each call, his or her name, the company he or she represents and the purpose of the call. Such calls may only be made between the hours of 8:00 a.m. and 8:00 p.m. Central Standard Time. No telephone solicitations may be made on a Sunday. For purposes of this provision, an "authorized telephone solicitation" means a solicitation that is made: (a) to a consumer who is not listed on the most current "no-calls" database; (b) by a telephone solicitor who has been authorized to make such solicitations under the provisions of Section 77-3-709; or (c) by a telephone solicitor who is exempt from this article under the provisions of Section 77-3-711.

(2) A person or entity who makes a telephone solicitation to a consumer in this state may not utilize knowingly any method that blocks or otherwise circumvents the consumer's use of a caller identification service, nor may the person or entity use an automated dialing system or any like system that uses a recorded voice message to communicate with the consumer unless the person or entity has an established business relationship with the consumer and uses the recorded voice message to inform the consumer about a new product or service.

SECTION 13. Section 77-3-725, Mississippi Code of 1972, is reenacted as follows:

77-3-725. The commission may investigate alleged violations and initiate proceedings relative to a violation of this article or any rules and regulations promulgated pursuant to this article. Such proceedings include, without limitation, proceedings to issue a cease and desist order, and to issue an order imposing a civil penalty not to exceed Five Thousand Dollars (\$5,000.00) for each violation. The commission shall afford an opportunity for a fair hearing to the alleged violator(s) after giving written notice of the time and place for said hearing. Failure to appear at any such hearing may result in the commission finding the alleged violator(s) liable by default. Any telephone solicitor found to have violated this article, pursuant to a hearing or by default, may be subject to a civil penalty not to exceed Five Thousand Dollars (\$5,000.00) for each violation to be assessed and collected by the commission. Each telephonic communication shall constitute a separate violation.

All penalties collected by the commission shall be deposited in the special fund created under Section 77-3-721 for the administration of this article.

The commission may issue subpoenas, require the production of relevant documents, administer oaths, conduct hearings, and do all things necessary in the course of investigating, determining and adjudicating an alleged violation.

The remedies, duties, prohibitions and penalties set forth under this article shall not be exclusive and shall be in addition to all other causes of action, remedies and penalties provided by law, including, but not limited to, the penalties provided by Section 77-1-53.

SECTION 14. Section 77-3-727, Mississippi Code of 1972, is reenacted as follows:

77-3-727. Any person who has received a telephone solicitation in violation of this article, or any rules and regulations promulgated pursuant to this article, may file a complaint with the commission. The complaint will be processed pursuant to complaint procedures established by the commission.

SECTION 15. Section 77-3-729, Mississippi Code of 1972, is reenacted as follows:

77-3-729. It shall be a defense in any action or proceeding brought under Section 77-3-725 or 77-3-727 that the defendant has established and implemented, with due care, reasonable practices and procedures to effectively prevent telephone solicitations in violation of this article.

SECTION 16. Section 77-3-731, Mississippi Code of 1972, is reenacted as follows:

77-3-731. The commission is granted personal jurisdiction over any telephone solicitor, whether a resident or a nonresident, notwithstanding that telephone solicitors are not deemed to be a public utility, for the purpose of administering this article. The commission is granted personal jurisdiction over any nonresident telephone solicitor, its executor, administrator, receiver, trustee or any other appointed representative of such nonresident as to an action or proceeding authorized by this article or any rules and regulations promulgated pursuant to this article as authorized by Section 13-3-57, and also upon any nonresident, his or her executor, administrator, receiver, trustee or any other appointed representative of such nonresident who has qualified under the laws of this state to do business herein. Service of summons and process upon the alleged violator of this article shall be had or made as is provided by the Mississippi Rules of Civil Procedure.

SECTION 17. Section 77-3-733, Mississippi Code of 1972, is reenacted as follows:

77-3-733. Any party aggrieved by any final order of the commission pursuant to this article, or any rules and regulations promulgated pursuant to this article, shall have the right of appeal to the Chancery Court of Hinds County, Mississippi, First Judicial District.

SECTION 18. Section 77-3-735, Mississippi Code of 1972, is reenacted as follows:

77-3-735. No provider of telephonic caller identification service, local exchange telephone company or long distance company certificated by the commission may be held liable for violations of this article committed by other persons or entities.

SECTION 19. Section 77-3-737, Mississippi Code of 1972, is amended as follows:

77-3-737. Sections 77-3-701 through 77-3-737 shall stand repealed from and after July 1, * * * 2017.

SECTION 20. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

Senate Bill 2806

Description: Tourism; revise the definition of the term “tourism project” for purposes of the tourism project sales tax incentive fund.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: July 1, 2013

Chapter Number: 304

History of Actions:

- | | | | |
|----|-------|-----|----------------------------|
| 1 | 01/21 | (S) | Referred To Finance |
| 2 | 01/31 | (S) | Title Suff Do Pass |
| 3 | 02/07 | (S) | Passed {Vote} |
| 4 | 02/08 | (S) | Transmitted To House |
| 5 | 02/12 | (H) | Referred To Ways and Means |
| 6 | 02/13 | (H) | Title Suff Do Pass |
| 7 | 02/18 | (H) | Passed {Vote} |
| 8 | 02/19 | (H) | Transmitted To Senate |
| 9 | 02/20 | (S) | Enrolled Bill Signed |
| 10 | 02/20 | (H) | Enrolled Bill Signed |
| 11 | 02/26 | | Approved by Governor |

Code Section: A 057-0026-0001

----- Additional Information -----

Senate Committee: Finance

House Committee: Ways and Means

Principal Author: Kirby

Additional Authors: Harkins, Lee

Title: AN ACT TO AMEND SECTION 57-26-1, MISSISSIPPI CODE OF 1972, TO REVISE THE DEFINITION OF THE TERM “TOURISM PROJECT” FOR PURPOSES OF THE TOURISM PROJECT SALES TAX INCENTIVE PROGRAM TO INCLUDE CULTURAL RETAIL ATTRACTIONS; TO DEFINE THE TERM “CULTURAL RETAIL ATTRACTION”; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI SB 2806

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Finance

By: Senator(s) Kirby, Harkins, Lee

Senate Bill 2806

(As Sent to Governor)

AN ACT TO AMEND SECTION 57-26-1, MISSISSIPPI CODE OF 1972, TO REVISE THE DEFINITION OF THE TERM "TOURISM PROJECT" FOR PURPOSES OF THE TOURISM PROJECT SALES TAX INCENTIVE PROGRAM TO INCLUDE CULTURAL RETAIL ATTRACTIONS; TO DEFINE THE TERM "CULTURAL RETAIL ATTRACTION"; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 57-26-1, Mississippi Code of 1972, is amended as follows:

57-26-1. As used in Sections 57-26-1 through 57-26-5, the following terms and phrases shall have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) "Approved project costs" means actual costs incurred by an approved participant for land acquisition, construction, engineering, design and other costs approved by the Mississippi Development Authority relating to a tourism project; however, for the purposes of a tourism project described in paragraph (d)(iv) of this section, such costs include only those incurred after January 1, 2011, relating to the hotel portion of the project consisting of facilities used for lodging and common areas in that portion of the project. All costs must be verified by an independent third party approved by the MDA. An approved participant shall pay the costs for the third-party verification of costs. Approved project costs may not increase regardless of the actual costs incurred by the project.

(b) "Approved participant" means a person, corporation or other entity issued a certificate by the Mississippi Development Authority under Section 57-26-5.

(c) "MDA" means the Mississippi Development Authority.

(d) "Tourism project" shall include any of the following as may be approved by the MDA:

(i) Theme parks, water parks, entertainment parks or outdoor adventure parks, cultural or historical interpretive

educational centers or museums, motor speedways, indoor or outdoor entertainment centers or complexes, convention centers, professional sports facilities, spas, attractions created around a natural phenomenon or scenic landscape and marinas open to the public with a minimum private investment of not less than Ten Million Dollars (\$10,000,000.00);

(ii) A hotel with a minimum private investment of Forty Million Dollars (\$40,000,000.00) in land, buildings, architecture, engineering, fixtures, equipment, furnishings, amenities and other related soft costs approved by the Mississippi Development Authority, and having a minimum private investment of One Hundred Fifty Thousand Dollars (\$150,000.00) per guest room which amount shall be included within the minimum private investment of Forty Million Dollars (\$40,000,000.00);

(iii) A public golf course with a minimum private investment of Ten Million Dollars (\$10,000,000.00);

(iv) A full service hotel with a minimum private investment of Fifteen Million Dollars (\$15,000,000.00) in land, buildings, architecture, engineering, fixtures, equipment, furnishings, amenities and other related soft costs approved by the Mississippi Development Authority, and having a minimum private investment of Two Hundred Thousand Dollars (\$200,000.00) per guest room or suite which amount shall be included within the minimum private investment of Fifteen Million Dollars (\$15,000,000.00), a minimum of twenty-five (25) guest rooms or suites, and guest amenities such as restaurants, spas and other amenities as determined by the Mississippi Development Authority;

(v) A tourism attraction located within an "entertainment district" as defined in Section 17-29-3 that is open to the public, has seating to accommodate at least forty (40) persons, is open at least five (5) days per week from at least 6:00 p.m. until midnight, serves food and beverages, and provides live entertainment at least three (3) nights per week * * *;

(vi) A cultural retail attraction.

The term "tourism project" does not include any licensed gaming establishment owned, leased or controlled by a business, corporation or entity having a gaming license issued under Section 75-76-1 et seq.; however, the term "tourism project"

may include a project described in this paragraph (d) that is owned, leased or controlled by such a business, corporation or entity or in which the business, corporation or entity has a direct or indirect financial interest if the project is in excess of development that the State Gaming Commission requires for the issuance or renewal of a gaming license and is not part of a licensed gaming establishment in which gaming activities are conducted.

The term "tourism project" does not include any facility within the project whose primary business is retail sales or any expansions of existing projects; however, pro shops, souvenir shops, gift shops, concessions and similar retail activities, and cultural retail attractions may be included within the definition of the term "tourism project." In addition, retail activities, regardless of whether the primary business is retail sales, that are part of a resort development may be included within the definition of "tourism project."

(e) "Resort development" means a travel destination development with a minimum private investment of One Hundred Million Dollars (\$100,000,000.00) and which consists of (a) a hotel with a minimum of two hundred (200) guest rooms or suites and having a minimum private investment of Two Hundred Thousand Dollars (\$200,000.00) per guest room or suite, and (b) guest amenities such as restaurants, golf courses, spas, fitness facilities, entertainment activities and other amenities as determined by the MDA. Not more than an amount equal to forty percent (40%) of the private investment required by this paragraph may be expended on facilities to house retail activity.

(f) "Cultural retail attraction" means a project which combines destination shopping with cultural or historical interpretive elements specific to Mississippi with a minimum private investment of Fifty Million Dollars (\$50,000,000.00) in land, buildings, architecture, engineering, fixtures, equipment, furnishings, amenities and other related soft costs approved by the Mississippi Development Authority and which:

(i) Is located in a qualified resort area as defined in Section 67-1-5;

(ii) Is a part of a master-planned development with a total investment of not less than One Hundred Million Dollars (\$100,000,000.00) in land, buildings, architecture, engineering, fixtures, equipment, furnishings, amenities

and other related soft costs approved by the Mississippi Development Authority;

(iii) Has a minimum of fifty (50) retail tenants with a minimum of three hundred thousand (300,000) square feet of heated and cooled space; and

(iv) Has a minimum investment of One Million Dollars (\$1,000,000.00) in one or more of the following:

1. Art created by Mississippi artists or portraying themes specific to Mississippi;

2. Memorabilia, signage or historical markers which serve to promote the State of Mississippi;

3. Audio/visual equipment used to showcase Mississippi artists;

4. A minimum of one thousand two hundred and fifty (1,250) square feet of heated and cooled space available to the Mississippi Development Authority or its assignee for a period of not less than ten (10) years.

(* * * g) "Retail activity" means businesses whose inventory consists primarily of upscale name brands or their equivalent as determined by the MDA.

(* * * h) "State" means the State of Mississippi.

SECTION 2. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

Senate Bill 2811

Description: University of Southern Mississippi property; authorize DFA to sell and convey.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: General Bill/Constitutional Amendment

Revenue: No

Vote type required: Majority

Effective date: Passage

Chapter Number: 400

History of Actions:

- 1 01/21 (S) Referred To Universities and Colleges
- 2 01/31 (S) Title Suff Do Pass
- 3 02/06 (S) Passed {Vote}
- 4 02/07 (S) Transmitted To House
- 5 02/21 (H) Referred To Public Property
- 6 02/26 (H) Title Suff Do Pass As Amended
- 7 02/28 (H) Amended
- 8 02/28 (H) Passed As Amended {Vote}
- 9 03/01 (H) Returned For Concurrence
- 10 03/11 (S) Concurred in Amend From House {Vote}
- 11 03/14 (S) Enrolled Bill Signed
- 12 03/14 (H) Enrolled Bill Signed
- 13 03/20 Approved by Governor

Amendments:

[H] Committee Amendment No 1 *Adopted* Voice Vote

Amendment Report for Senate Bill No. 2811

----- Additional Information -----

Senate Committee: Universities and Colleges

House Committee: Public Property

Principal Author: Polk

Title: AN ACT TO AUTHORIZE THE DEPARTMENT OF FINANCE AND ADMINISTRATION, ACTING ON BEHALF OF THE BOARD OF TRUSTEES OF

STATE INSTITUTIONS OF HIGHER LEARNING, TO SELL AND CONVEY CERTAIN STATE-OWNED REAL PROPERTY AND ANY IMPROVEMENTS THEREON UNDER THE POSSESSION AND CONTROL OF THE UNIVERSITY OF SOUTHERN MISSISSIPPI, LOCATED IN JACKSON COUNTY, MISSISSIPPI; AND FOR RELATED PURPOSES.

2013 GENERAL LAWS OF MISSISSIPPI SB 2811

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Universities and Colleges

By: Senator(s) Polk

Senate Bill 2811

(As Sent to Governor)

AN ACT TO AUTHORIZE THE DEPARTMENT OF FINANCE AND ADMINISTRATION, ACTING ON BEHALF OF THE BOARD OF TRUSTEES OF STATE INSTITUTIONS OF HIGHER LEARNING, TO SELL AND CONVEY CERTAIN STATE-OWNED REAL PROPERTY AND ANY IMPROVEMENTS THEREON UNDER THE POSSESSION AND CONTROL OF THE UNIVERSITY OF SOUTHERN MISSISSIPPI, LOCATED IN JACKSON COUNTY, MISSISSIPPI; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. (1) The Department of Finance and Administration, acting on behalf of the Board of Trustees of State Institutions of Higher Learning, is authorized to sell and convey certain state-owned real property and any improvements thereon under the possession and control of the University of Southern Mississippi, located in Jackson County, Mississippi, and more particularly described as follows:

The North 5 acres of the N1/2 S1/2 of the SW1/4, West of Saracena Road, Section 15, Township 5 South, Range 5 West, Jackson County, Mississippi.

Title Vested In:

According to said Public Records, fee simple title is vested in University of Southern Mississippi, by virtue of Judgment Approving Final Account and Closing the Estate from Chancery Court of Forrest County, Mississippi for the Estate of M.M. Roberts, deceased, dated July 22, 1986, filed on July 24, 1986 at 9:20 am., and recorded in Book 865, Page 816.

and also by:

Order Amending Judgment from the Forrest County, Mississippi Chancery Court, dated June 13, 1989,

filed June 21, 1989, at 9:44 a.m. and recorded in Book 939, Page 672.

(2) The real property described in subsection (1) of this section shall not be sold for less than the current fair

market value as determined by the averaging of at least two (2) appraisals by qualified appraisers, one (1) of which shall be selected by the Department of Finance and Administration, and both of which shall be certified and licensed by the Mississippi Real Estate Appraiser Licensing and Certification Board.

(3) The State of Mississippi shall retain all mineral rights to the real property sold under this section.

(4) Proceeds from the sale of the real property described in subsection (1) of this section shall be deposited into the M.M. Roberts Endowment Fund administered by the University of Southern Mississippi.

SECTION 2. This act shall take effect and be in force from and after its passage.

Mississippi Legislature

2013 Regular Session

Senate Bill 2816

Description: Homestead exemption; certain leases between physically or mentally disabled and institutions are not homesteads.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: Revenue

Revenue: Yes

Vote type required: Three/Fifths

Effective date: July 1, 2013

Chapter Number: 409

History of Actions:

- 1 02/11 (S) Referred To Finance
- 2 02/21 (S) Title Suff Do Pass
- 3 02/27 (S) Passed {Vote}
- 4 02/28 (S) Transmitted To House
- 5 03/08 (H) Referred To Ways and Means
- 6 03/12 (H) Title Suff Do Pass
- 7 03/13 (H) Passed {Vote}
- 8 03/13 (H) Immediate Release
- 9 03/13 (H) Transmitted To Senate
- 10 03/14 (S) Enrolled Bill Signed
- 11 03/14 (H) Enrolled Bill Signed
- 12 03/20 Approved by Governor

Code Section: A 027-0033-0019

----- Additional Information -----

Senate Committee: Finance

House Committee: Ways and Means

Principal Author: Wilemon

Additional Authors: Butler (36th), Butler (38th), Gollott, Jackson (11th), Jordan, Simmons (12th), Stone

Title: AN ACT TO AMEND SECTION 27-33-19, MISSISSIPPI CODE OF 1972, TO EXCLUDE FROM THE DEFINITION OF "HOME" OR "HOMESTEAD" UNDER THE HOMESTEAD EXEMPTION LAW CERTAIN LEASES BETWEEN A PERSON

WHO IS PHYSICALLY OR MENTALLY UNABLE TO CARE FOR HIMSELF AND THE INSTITUTION IN WHICH THE PERSON IS CONFINED; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Finance

By: Senator(s) Wilemon, Butler (36th), Butler (38th),
Gollott, Jackson (11th), Jordan, Simmons (12th), Stone

Senate Bill 2816

(As Sent to Governor)

AN ACT TO AMEND SECTION 27-33-19, MISSISSIPPI CODE OF 1972, TO EXCLUDE FROM THE DEFINITION OF "HOME" OR "HOMESTEAD" UNDER THE HOMESTEAD EXEMPTION LAW CERTAIN LEASES BETWEEN A PERSON WHO IS PHYSICALLY OR MENTALLY UNABLE TO CARE FOR HIMSELF AND THE INSTITUTION IN WHICH THE PERSON IS CONFINED; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 27-33-19, Mississippi Code of 1972, is amended as follows:

27-33-19. The word "home" or "homestead" whenever used in this article shall mean the dwelling, the essential outbuildings and improvements, and the eligible land assessed on the land roll actually occupied as the primary home of a family group, eligible title to which is owned by the head of the family, a bona fide resident of this state, and when the dwelling is separately assessed on the land roll for the year in which the application is made, subject to the limitations and conditions contained in this article. And the meaning of the word is hereby extended to specifically include:

(a) One or more separate, bona fide dwellings and the land on which they are located, each occupied under eligible ownership rights by the widow or the widower, or the children of a deceased parent, each separate home being property or a portion of property owned by a deceased person whose estate has not been distributed or divided or vested in a person or persons for life. But in each case the property for which exemption is sought may not be more than the applicant's inherited portion, and must be accurately described on the application and the conditions explained in writing. But the heirs may elect to accept one (1) homestead for the estate. The home occupied by the surviving spouse as provided by the laws of this state shall be preferred over the homes claimed by the children, and the exemption to any other heir shall

not exceed the remaining amount obtained by deducting the assessed value of the surviving spouse's portion from the assessed value of the whole, divided by the number of heirs other than the surviving spouse. Each heir claiming exemption shall meet the requirements as to occupancy, residence and head of a family, and no part of the undivided inherited lands shall be combined with other lands and included in a homestead exemption under this article except in the case of the surviving spouse.

(b) One or more separated dwellings and eligible land, not apartments, occupied each by a family group as a bona fide home, eligible title to which entire property is held jointly by purchase or otherwise by the heads of the families, and each joint owner shall be allowed exemption on the proportion of the total assessed value of all the property, equal to his fractional interest (except as otherwise provided in paragraph (r) of this section), provided no part of the jointly owned property shall be exempted to a joint owner who has been allowed an exemption on another home in the state.

(c) A dwelling and eligible lands owned jointly or severally by a husband and wife, if they are actually and legally living together. But if husband and wife are living apart, not divorced, as provided by paragraphs (c) and (d) of Section 27-33-13, jointly owned land shall not be included except that the dwelling occupied as a home at the time of separation shall be eligible if owned jointly or severally.

(d) The dwelling and eligible land on which it is located, owned and actually occupied as a home by a minister of the gospel or by a licensed school teacher actively engaged whose duties as such require them to be away from the home for the major part of each year, including January 1, provided it was eligible before such absence, and no income is derived therefrom, and no part of the dwelling claimed as a home is rented, leased or occupied by another family group, and when the home is eligible except for the temporary absence of the owner.

(e) The dwelling and the eligible land on which it is located, consisting of not more than four (4) apartments; provided (i) if one (1) apartment is actually occupied as a home by the owner the exemption shall be limited to one-fourth (1/4) the exemption granted pursuant to this article, or (ii) if the dwelling and land is owned by four (4) persons and the

four (4) owners each occupy one (1) apartment as a home, the exemption shall be granted equally to each owner; provided revenue is not derived from any part of the property except as permitted by paragraphs (g) and (h) of this section. If the dwelling and the eligible land on which it is located consists of not more than three (3) apartments, and one (1) apartment is actually occupied as a home by the owner, the exemption shall be limited to one-third (1/3) the exemption granted pursuant to this article, or if the dwelling and land is owned by three (3) persons and the three (3) owners each occupy one (1) apartment as a home, the exemption shall be granted equally to each owner; provided revenue is not derived from any part of the property except as permitted by paragraphs (g) and (h) of this section. If the dwelling and the eligible land on which it is located consists of not more than two (2) apartments and one (1) apartment is actually occupied as a home by the owner, the exemption shall be limited to one-half (1/2) the exemption granted pursuant to this article, or if the dwelling and land is owned by two (2) persons and the two (2) owners each occupy one (1) apartment as a home, the exemption shall be granted equally to each owner; provided revenue is not derived from any part of the property except as permitted by paragraphs (g) and (h) of this section.

(f) The dwelling and eligible land on which it is located, actually occupied as the bona fide home of a family group owned by the head of the family whereof five (5) and not more than six (6) rooms are rented to tenants or boarders, and where there are rented rooms and an apartment, the apartment shall be counted as three (3) rooms; provided the exemption shall be limited to one-half (1/2) the exemption granted pursuant to this article.

(g) The dwelling and eligible land being the bona fide home of a family group owned by the head of the family used partly as a boarding house, or for the entertainment of paying guests, if the number of boarders or paying guests does not exceed eight (8).

(h) The dwelling and eligible land being the bona fide home of a family group owned by the head of the family wherein activity of a business nature is carried on, but where the assessed value of the property associated with the business activity is less than one-fifth (1/5) of the total assessed value of the bona fide home; provided, however, that when the

owner's full-time business is located in the bona fide home of the head of the family, such owner shall be limited to one-half (1/2) of the exemption granted pursuant to this article.

(i) The dwelling and the eligible land on which it is located and other eligible land even though ownership of and title to the dwelling and the land on which it is located has been conveyed to a housing authority for the purpose of obtaining the benefits of the Housing Authorities Law as authorized by Sections 43-33-1 through 43-33-53 or related laws.

(j) A dwelling and the eligible land on which it is located owned by a person who is physically or mentally unable to care for himself and confined in an institution for treatment shall be eligible notwithstanding the absence of the owner unless the home is excluded under other provisions of this article. The exemption is available for a period of ten (10) years from the day of confinement.

(k) The dwelling and the eligible land on which it is located owned by two (2) or more persons of a group, as defined in paragraph (f) of Section 27-33-13, when two (2) or more of the group have eligible title, or if the group holds a life estate, a joint estate or an estate in common; provided the title of the several owners shall be of the same class.

(l) A dwelling and the eligible land on which it is located under a lease of sixty (60) years by the Pearl River Valley Water Supply District at the reservoir known as the "Ross Barnett Reservoir" actually occupied as the home or homestead of a family or person as defined heretofore in this article. However, no such family group or any other person heretofore qualified and defined in this article shall be allowed to establish more than one (1) home or homestead for the purpose and intent of this article.

(m) Units of a condominium constructed in accordance with Section 89-9-1 et seq., Mississippi Code of 1972, known as the "Mississippi Condominium Law," and actually occupied as the home or homestead of a family or person as defined heretofore in this article. However, no such family group or any other person heretofore qualified and defined in this article shall be allowed to establish more than one (1) home or homestead for the purpose and intent of this article.

(n) A dwelling and the eligible land on which it is located held under a lease of ten (10) years or more or for life, from a fraternal or benevolent organization and actually occupied as the home or homestead of a family or person as defined heretofore in this article. No such family group or any other person heretofore qualified and defined in this article shall be allowed to establish more than one (1) home or homestead for the purpose and intent of this article.

(o) A dwelling being the bona fide home of a family group owned by the head of the family and located on land owned by a corporation incorporated more than fifty (50) years ago and in which the homeowner is a shareholder, and which corporation owns no land outside Monroe and Itawamba Counties. No family group or any other person heretofore qualified and defined in this article shall be allowed to establish more than one (1) home or homestead for the purpose and intent of this article.

(p) A dwelling and the eligible land on which it is located under a lease of five (5) years or more by the Mississippi-Yazoo Delta Levee Board actually occupied as the home or homestead of a family or person as defined pursuant to this article. However, no such family group or any other person qualified and defined pursuant to this article shall be allowed to establish more than one (1) home or homestead for the purpose and intent of this article. The definition shall include all leases in existence that were entered into prior to July 1, 1992.

(q) A dwelling and the eligible land on which the spouse of a testator is granted the use of such dwelling for life or until the occurrence of certain contingencies and the children of such testator are granted a remainder interest in the dwelling and eligible land. Such dwelling and eligible land will only qualify as a home or homestead if (i) the spouse of the testator would otherwise qualify as head of a family if the interest were a tenancy for life (life estate), and (ii) the dwelling and eligible land is actually occupied as the home of the spouse of the testator. The children of the testator shall be allowed to establish an additional homestead for purposes of this article.

(r) A dwelling and the eligible land actually occupied as the bona fide home of a family group. If a person has been granted use and possession of a home in a divorce decree,

that individual is eligible for full exemption, regardless of whether the property is jointly owned.

(s) A dwelling being the bona fide home of a family group located on land owned by a corporation incorporated more than forty (40) years ago and in which the head of the family group is a shareholder, and which corporation owns no land outside Lee County, Mississippi. No family group or any other person qualified and defined in this article shall be allowed to establish more than one (1) home or homestead for the purpose and intent of this article.

(t) The floor or floors of a building used solely for the residence of a family group when the building is owned by the head of the family and another floor or floors of the building are used for business activity.

(u) A dwelling being the bona fide home of a family group located on land owned by an incorporated club and in which the head of the family group is a shareholder, and which incorporated club owns no land outside Union County, Mississippi; provided, the incorporated club pays all ad valorem taxes levied on the land upon which the dwelling is located. No family group or any other person qualified and defined in this article shall be allowed to establish more than one (1) home or homestead for the purpose and intent of this article.

(v) A dwelling and the eligible land on which it is located under a sublease for a period of twenty (20) years or more on land leased pursuant to Section 1 of Chapter 558, Laws of 2010, actually occupied as the home or homestead of a family or person as defined pursuant to this article. However, no such family group or any other person qualified and defined pursuant to this article shall be allowed to establish more than one (1) home or homestead for the purpose and intent of this article.

(w) The portion of a building that is listed on the National Register of Historic Places that is used solely for the residence of a family group when the building is owned by the head of the family and rooms in the building are rented to transient guests; however, not more than ten (10) rooms in the building may be rented to transient guests.

(x) A dwelling and the eligible land on which it is located under a lease or sublease of twenty-five (25) years or

more actually occupied as the home or homestead of a family or person as defined in this article. However, no such family group or any other person heretofore qualified and defined in this article shall be allowed to establish more than one (1) home or homestead for the purpose and intent of this article. This paragraph shall not apply to a lease between a person who is physically or mentally unable to care for himself and the institution in which the person is confined.

SECTION 2. This act shall take effect and be in force from and after July 1, 2013.

Mississippi Legislature

2013 Regular Session

Senate Bill 2847

Description: Special fuel tax; exempt fuel used by a commercial airline on certain interstate air service.

Fiscal Note: No fiscal note conducted

Background Information:

Disposition: Law

Deadline: Revenue

Revenue: Yes

Vote type required: Three/Fifths

Effective date: July 1, 2013

Chapter Number: 411

History of Actions:

- | | | | |
|----|-------|-----|----------------------------|
| 1 | 02/15 | (S) | Referred To Finance |
| 2 | 02/21 | (S) | Title Suff Do Pass |
| 3 | 02/27 | (S) | Passed {Vote} |
| 4 | 02/28 | (S) | Transmitted To House |
| 5 | 03/08 | (H) | Referred To Ways and Means |
| 6 | 03/12 | (H) | Title Suff Do Pass |
| 7 | 03/13 | (H) | Passed {Vote} |
| 8 | 03/13 | (H) | Immediate Release |
| 9 | 03/13 | (H) | Transmitted To Senate |
| 10 | 03/14 | (S) | Enrolled Bill Signed |
| 11 | 03/14 | (H) | Enrolled Bill Signed |
| 12 | 03/20 | | Approved by Governor |

Amendments:

[S] Amendment No 1Lost Voice Vote

Code Section: A 027-0055-0527

----- **Additional Information** -----

Senate Committee: Finance

House Committee: Ways and Means

Principal Author: Kirby

Title: AN ACT TO AMEND SECTION 27-55-527, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT SPECIAL FUEL SOLD TO BE CONSUMED AS FUEL BY PLANES

USED BY A COMMERCIAL AIRLINE NEW INTERSTATE AIR SERVICE OFFERED BY A NEW CARRIER IN THE MARKET, FOR INTERSTATE SERVICE TO A NEW CITY BY AN EXISTING AIRLINE OR FOR ADDITIONAL INTERSTATE SERVICE TO A CITY ALREADY SERVED BY A COMMERCIAL AIRLINE, SHALL NOT BE SUBJECT TO THE TAX LEVIED ON SPECIAL FUEL FOR A PERIOD OF 12 MONTHS AFTER THE DATE THE ROUTE IS ESTABLISHED; AND FOR RELATED PURPOSES.

MISSISSIPPI LEGISLATURE

2013 Regular Session

To: Finance

By: Senator(s) Kirby

Senate Bill 2847

(As Sent to Governor)

AN ACT TO AMEND SECTION 27-55-527, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT SPECIAL FUEL SOLD TO BE CONSUMED AS FUEL BY PLANES USED BY A COMMERCIAL AIRLINE NEW INTERSTATE AIR SERVICE OFFERED BY A NEW CARRIER IN THE MARKET, FOR INTERSTATE SERVICE TO A NEW CITY BY AN EXISTING AIRLINE OR FOR ADDITIONAL INTERSTATE SERVICE TO A CITY ALREADY SERVED BY A COMMERCIAL AIRLINE, SHALL NOT BE SUBJECT TO THE TAX LEVIED ON SPECIAL FUEL FOR A PERIOD OF 12 MONTHS AFTER THE DATE THE ROUTE IS ESTABLISHED; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 27-55-527, Mississippi Code of 1972, is amended as follows:

27-55-527. (1) There shall not be included in the measure of the tax levied in this article any special fuel:

(a) Sold or delivered by a bonded distributor of special fuel to a second bonded distributor of special fuel within this state, but nothing in this exclusion shall exempt the second bonded distributor of special fuel from paying the tax unless the second bonded distributor of special fuel sells or delivers said special fuel to a third bonded distributor of special fuel, in which event the third bonded distributor of special fuel shall be liable for the tax.

(b) Sold to the United States government for use of the Armed Forces only, and delivered in quantities of not less than four thousand (4,000) gallons.

(c) Delivered to a bonded warehouse for storage within this state for the United States Department of Interior.

(d) Exported to a destination beyond the borders of this state by a bonded distributor of special fuel when the tax on such special fuel has been paid or on which the tax liability imposed by this article has accrued against such bonded distributor.

(e) Imported by, or sold to, any refiner or processor in this state for the purpose of being refined or further processed.

(f) Sold or delivered to any person within this state to be used as a herbicide or as a solvent for insecticides, wood preservatives and like products, or when so used in a commercial process that they become a component part of any manufactured product or where used as a processing agent in the treatment of raw material in manufacturing any product.

(g) Sold or delivered to be used for test purposes at any regularly established testing laboratory in this state.

(h) Sold to be consumed as fuel by any boat, vessel, ship, towboat or dredgeboat, or sold to the holder of a Marine Dealers Permit for resale or distribution as fuel for a boat, vessel, ship, towboat or dredgeboat.

(i) Sold as bunker oil or sold to be used for the generation of heat in a firebox or furnace.

(j) Sold or delivered to be used for the purpose of generating electricity.

(k) Sold for use as fuel in a railroad locomotive when subject to the tax levied by Section 27-59-301 et seq.

(l) Sold or delivered in bond, or sold or delivered, to any person within a foreign-trade zone within this state and sold, used, consumed, distributed, stored or withdrawn from storage and used to propel aircraft on an international flight including any interim stops within the United States so long as the origin or ultimate destination of the aircraft is outside the United States and District of Columbia. As used in this paragraph, "foreign-trade zone" means a foreign-trade zone operated and maintained by a public or private corporation under the provisions of Sections 59-3-31 through 59-3-37.

(m) Sold to be consumed as fuel by planes used by a commercial airline for new interstate air service offered by a new carrier in the market, for interstate service to a new city by an existing airline or for additional interstate service to a city already served by a commercial airline, for a period of twelve (12) months after the date the service is established.

(2) The exemptions set forth in paragraphs (f), (h), (i) and (j) of subsection (1) of this section shall not apply to special fuel used in performing contracts for construction, reconstruction, maintenance or repairs, where such contracts are entered into with the State of Mississippi, any political subdivision of the State of Mississippi, or any department, agency or institution of the State of Mississippi or any political subdivision thereof.

(3) Evidence of exempt transactions provided in this section and the subsections thereof shall consist of copies of invoices, documents or any other evidence that may be required by the commission.

(4) Any person other than a bonded distributor of special fuel who has delivered or sold special fuel on which the tax has been paid by him to the vendor may, if the special fuel is subject to exemption under this article, assign his claim for exemption to any bonded distributor of special fuel in this state. Such distributor may deduct the amount of the tax exemption from his next special fuel report, provided the distributor furnishes evidence satisfactory to the commission that the claim for exemption is valid.

(5) When special fuel is withdrawn from the storage tank of a refiner, processor, marine or pipeline terminal operator and the tax is paid on such special fuel and it or any part thereof cannot be delivered to a purchaser, said refiner, processor, marine or pipeline terminal operator may deduct the tax on all or that portion of such special fuel not delivered to a purchaser from its next special fuel distributor's tax report, provided that such refiner, processor, marine or pipeline terminal operator submits with such tax report: (a) a written report setting forth the reasons why such delivery could not be made, and (b) proof or evidence satisfactory to the commission that the tax in question had theretofore been paid to the commission, and (c) proof or evidence satisfactory to the commission that the nondelivered special fuel was actually returned to the refinery, processor, marine or pipeline terminal from which it was taken for the purpose of delivering it to a purchaser; and provided further, that immediately upon ascertainment by the refiner, processor, marine or pipeline terminal operator that said special fuel cannot be delivered, he or it shall immediately notify the commission of this fact and before

moving his or its truck or other means of transporting such special fuel from the intended point of delivery; and should the commission desire to inspect such truck or other means of conveyance, such refiner, processor, marine or pipeline terminal operator shall arrange for such inspection at that point or at such other point that may be designated by the commission.

(6) In order to claim exemptions provided for under this article, the distributor of special fuel must file claims therefor within three (3) years from the date of sale or delivery; otherwise, claims for such exemptions shall be disallowed.

SECTION 2. This act shall take effect and be in force from and after July 1, 2013.

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